

**Commonwealth of Massachusetts
MIDDLESEX SUPERIOR COURT DEPARTMENT
THE TRIAL COURT
Woburn**

Civil Docket#2381CV00868

I, Jessie Bernard, Deputy Assistant Clerk of the Superior Court, Within and for said County of Middlesex, do certify that the annexed papers are true copies made by photographic process of pleadings in **2381CV00868** entered in the Superior Court on the **27th** day of **March** in the year of our Lord 2023.

In testimony whereof, I hereunto set my hand and affix seal of said Middlesex Superior Court at Woburn in said county, this **26th** day of **May**, in the year of our Lord **Two Thousand Twenty-Three**.



Jessie Bernard
Deputy Assistant Clerk



**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

2381CV00868 Biscan, Parent Of Connor Biscan, Roberta et al vs. Town Of Wilmington et al

CASE TYPE: Actions Involving the State/Municipality	FILE DATE: 03/27/2023
ACTION CODE: AB1	CASE TRACK: A - Average
DESCRIPTION: Tortious Action involving the Commonwealth, Municipality, MBTA, etc.	
CASE DISPOSITION DATE: 05/26/2023	CASE STATUS: Closed
CASE DISPOSITION: Transferred to another Court	STATUS DATE: 05/26/2023
CASE JUDGE:	CASE SESSION: Civil H Rm 710

PARTIES

Plaintiff Baptista, Aaron 132 Federal Street Wilmington, MA 01887	Attorney Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023	552732
Plaintiff Baptista, Jennifer 132 Federal Street Wilmington, MA 01887	Attorney Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023	552732
Plaintiff Baptista, As Parent Of Nathan Baptista, Jennifer 132 Federal Street Wilmington, MA 01887	Attorney Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023	552732
Plaintiff Biscan, Roberta 119 Grove Street Wilmington, MA 01887	Attorney Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023	552732

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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

Plaintiff Biscan, Parent Of Connor Biscan, Roberta 119 Grove Avenue Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Chmiel, Mark 51 Pearl Street Ayer, MA 01432	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Clark, III, Clifton 4 Fall Street Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Doucette As Parent Of Antonino Lofaro, Nicolette 3213 Avalon Drive Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Doucette, Nicolette 3213 Avalon Drive Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023

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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

Plaintiff Fucile As Parent Of Ridley Fucile, Sabrina 1401 Pouliot Place Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Fucile, Allen 1401 Pouliot Place Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Fucile, Sabrina 1401 Pouliot Place Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Lavorato, Colleen 5 Ox Bow Drive Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Lavorato, Joseph 5 Oxbow Drive Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023

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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

Plaintiff Lofaro, Rosario 3213 Avalon Drive Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Luti, Jeannette 108 Woburn Street Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Luti, Richard 108 Woburn Street Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Luti, Guardian Of John Luti, Jeannette 108 Woburn Street Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Marsh, Kathryn 7 Shaker Shirley, MA 01464	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023

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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

Plaintiff Marsh, As Parent Of Riley Chmiel, Kathryn 7 Shaker Road Shirley, MA 01464	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Mellstrom As Parent Of Clifton Clark, Iv, Erika 4 Fall Street Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Mellstrom, Erika 4 Fall Street Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Nichols As Parent Of Gabriel Santry, Cassandra 2 Middlesex Avenue Swampscott, MA 01907	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Nichols, Cassandra 2 Middlesex Avenue Swampscott, MA 01907	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023

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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

Plaintiff Veloza As Parent Of Robert Condell, Sabrina 5 Towpath Drive Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Plaintiff Veloza, Sabrina 5 Towpath Drive Wilmington, MA 01887	Attorney 552732 Richard Matthew Welsh Kahalas Law Office Kahalas Law Office 6 Beacon St Suite 1020 Boston, MA 02108 Work Phone (617) 523-1155 Added Date: 03/25/2023
Defendant Brand, Glenn	Private Counsel 632617 Adam Simms Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023
	Private Counsel 697232 Justin Amos Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023
	Private Counsel 710250 Colleen M Howard Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023

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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

Defendant King, Charlotte	<div> Private Counsel 632617 Adam Simms Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023 </div> <div> Private Counsel 697232 Justin Amos Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023 </div> <div> Private Counsel 710250 Colleen M Howard Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023 </div>
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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

<p>Defendant Ruggiero, Paul</p>	<p>Private Counsel 632617 Adam Simms Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023</p> <p>Private Counsel 697232 Justin Amos Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023</p> <p>Private Counsel 710250 Colleen M Howard Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023</p>
<p>Defendant Talbot, Jessica</p>	<p>Private Counsel 643835 Christopher P Cifra Cifra Dougan, LLP Cifra Dougan, LLP One Mountain Rd Burlington, MA 01803 Work Phone (617) 939-9529 Added Date: 05/24/2023</p>

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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

Defendant Town Of Wilmington 121 Glen Road Wilmington, MA 01887	Private Counsel 632617 Adam Simms Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023
	Private Counsel 697232 Justin Amos Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023
	Private Counsel 710250 Colleen M Howard Pierce Davis and Perritano LLP Pierce Davis and Perritano LLP 10 Post Off Square Suite 1100N Boston, MA 02109 Work Phone (617) 350-0950 Added Date: 05/24/2023

FINANCIAL DETAILS

Date	Fees/Fines/Costs/Charge	Assessed	Paid	Dismissed	Balance
03/25/2023	Civil Filing Fee (per Plaintiff)	6,240.00	6,240.00	0.00	0.00
03/25/2023	Fee for Blank Summons or Writ (except Writ of Habeas Corpus) MGL 262 sec 4b	45.00	45.00	0.00	0.00
03/27/2023	Civil Filing Fee (per Plaintiff)	240.00	240.00	0.00	0.00
03/27/2023	Civil Security Fee (G.L. c. 262, § 4A)	20.00	20.00	0.00	0.00
03/27/2023	Civil Surcharge (G.L. c. 262, § 4C)	15.00	15.00	0.00	0.00
Total		6,560.00	6,560.00	0.00	0.00

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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

INFORMATIONAL DOCKET ENTRIES			
Date	Ref	Description	Judge
03/25/2023		Case assigned to: DCM Track A - Average was added on 03/25/2023	
03/25/2023	1	Complaint electronically filed.	
03/25/2023	2	Civil action cover sheet filed.	
03/27/2023		Demand for jury trial entered.	
03/27/2023		EDocument sent: A Tracking Order was generated and sent to: Plaintiff, Attorney: Richard Matthew Welsh, Jr., Esq. rwelsh@kahalaslaw.com	
05/24/2023		Attorney appearance On this date Christopher P Cifra, Esq. added as Private Counsel for Defendant Jessica Talbot	
05/24/2023		Attorney appearance On this date Adam Simms, Esq. added as Private Counsel for Defendant Town Of Wilmington	
05/24/2023		Attorney appearance On this date Adam Simms, Esq. added as Private Counsel for Defendant Alice Brown-Legend	
05/24/2023		Attorney appearance On this date Adam Simms, Esq. added as Private Counsel for Defendant Paul Ruggiero	
05/24/2023		Attorney appearance On this date Adam Simms, Esq. added as Private Counsel for Defendant Charlotte King	
05/24/2023		Attorney appearance On this date Adam Simms, Esq. added as Private Counsel for Defendant Glenn Brand	
05/24/2023	3	Service Returned for Defendant Talbot, Jessica: Service accepted by counsel; Accepted by Christopher P. Cifra, Esq., on 5/23/23 at 1 Mountain Rd., Burlington, MA 01803.	
05/24/2023	4	Service Returned for Defendant Town Of Wilmington: Service accepted by counsel; Accepted by Adam Simms, Esq., on 5/19/23 at 10 Post Office Square, Ste. 1100N, Boston, MA 02109.	

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**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

05/24/2023	<p>Service Returned for Defendant Brown-Legend, Alice: Service accepted by counsel;</p> <p>Accepted by Adam Simms, Esq., on 5/19/23 at 10 Post Office Square, Ste. 1100N, Boston, MA 02109.</p> <p>SEE P#4 FOR SCAN.</p>
05/24/2023	<p>Service Returned for Defendant Ruggiero, Paul: Service accepted by counsel;</p> <p>Accepted by Adam Simms, Esq., on 5/19/23 at 10 Post Office Square, Ste. 1100N, Boston, MA 02109.</p> <p>SEE P#4 FOR SCAN.</p>
05/24/2023	<p>Service Returned for Defendant King, Charlotte: Service accepted by counsel;</p> <p>Accepted by Adam Simms, Esq., on 5/19/23 at 10 Post Office Square, Ste. 1100N, Boston, MA 02109.</p> <p>SEE P#4 FOR SCAN.</p>
05/24/2023	<p>Service Returned for Defendant Brand, Glenn: Service accepted by counsel;</p> <p>Accepted by Adam Simms, Esq., on 5/19/23 at 10 Post Office Square, Ste. 1100N, Boston, MA 02109.</p> <p>SEE P#4 FOR SCAN.</p>
05/24/2023	<p>Attorney appearance On this date Justin Amos, Esq. added as Private Counsel for Defendant Town Of Wilmington</p>
05/24/2023	<p>Attorney appearance On this date Colleen M Howard, Esq. added as Private Counsel for Defendant Town Of Wilmington</p>
05/24/2023	<p>Attorney appearance On this date Justin Amos, Esq. added as Private Counsel for Defendant Alice Brown-Legend</p>
05/24/2023	<p>Attorney appearance On this date Colleen M Howard, Esq. added as Private Counsel for Defendant Alice Brown-Legend</p>
05/24/2023	<p>Attorney appearance On this date Justin Amos, Esq. added as Private Counsel for Defendant Charlotte King</p>
05/24/2023	<p>Attorney appearance On this date Colleen M Howard, Esq. added as Private Counsel for Defendant Charlotte King</p>

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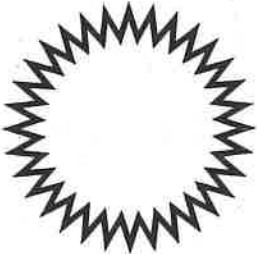


**COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX COUNTY
Docket Report**

05/24/2023		Attorney appearance On this date Justin Amos, Esq. added as Private Counsel for Defendant Glenn Brand
05/24/2023		Attorney appearance On this date Colleen M Howard, Esq. added as Private Counsel for Defendant Glenn Brand
05/24/2023		Attorney appearance On this date Justin Amos, Esq. added as Private Counsel for Defendant Paul Ruggiero
05/24/2023		Attorney appearance On this date Colleen M Howard, Esq. added as Private Counsel for Defendant Paul Ruggiero
05/24/2023	5	Service Returned for Defendant Fitzgerald, Victoria: Service made at last and usual; on 5/2/23 at 6 Chandler Rd., Wilmington, MA 01887
05/24/2023	6	Service Returned for Defendant Cummings, Kimberly: Service made at last and usual; on 5/2/23 at 24 Miller Rd., Wilmington, MA 01887.
05/26/2023	7	Defendants Town Of Wilmington, Alice Brown-Legend, Paul Ruggiero, Charlotte King, Glenn Brand's Notice of Filing of Notice of Removal (w/ Exhibits).
05/26/2023		Case transferred to another court.

MIDDLESEX, ss.

Commonwealth of Massachusetts
SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT



In testimony that the foregoing is a true copy on file and of record made by photographic process, I hereunto set my hand and affix the seal of said Superior Court this 26th day of May 2023.

Bernard
Deputy Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

**MIDDLESEX SUPERIOR COURT
CIVIL ACTION NO. 23-868 H**

**ROBERTA BISCAN, INDIVIDUALLY
AND AS PARENT OF CONNOR BISCAN**

**JENNIFER BAPTISTA AND AARON BAPTISTA, INDIVIDUALLY
AND AS PARENTS OF NATHAN BAPTISTA**

**SABRINA VELOZA, INDIVIDUALLY
AND AS PARENT OF ROBERT CONDELL**

**KATHRYN MARSH AND MARK CHMIEL, INDIVIDUALLY
AND AS PARENTS OF RILEY CHMIEL**

**COLLEEN LAVORATO AND JOSEPH LAVORATO, INDIVIDUALLY
AND AS PARENTS OF CHLOE LAVORATO**

**NICOLETTE DOUCETTE AND ROSARIO LOFARO, INDIVIDUALLY
AND AS PARENTS ANTONINO LOFARO**

**JEANNETTE LUTI AND RICHARD LUTI, INDIVIDUALLY
AND AS PARENTS OF JOHN LUTI**

**CASSANDRA NICHOLS, INDIVIDUALLY
AND AS PARENT OF GABRIEL SANTRY,**

**ERIKA MELLSTROM and CLIFTON CLARK, III, INDIVIDUALLY
AND AS PARENTS OF CLIFTON CLARK, IV**

**SABRINA FUCILE and ALLEN FUCILE, INDIVIDUALLY
AND AS PARENTS OF RIDLEY FUCILE**

Plaintiffs

vs.

**TOWN OF WILMINGTON,
KIMBERLY CUMMINGS, VICTORIA FITZGERALD, JESSICA TALBOT,
KELLY FOGGERTY, ALICE BROWN-LEGRAND, PAUL RUGGIERO,
CHARLOTTE KING AND GLENN BRAND**

Defendants

COMPLAINT AND DEMAND FOR JURY

INTRODUCTION

1. This action, against the TOWN OF WILMINGTON, KIMBERLY CUMMINGS, VICTORIA FITZGERALD, JESSICA TALBOT, KELLY FOGGERTY, ALICE BROWN-LEGRAND, PAUL RUGGIERO, CHARLOTTE KING, and GLENN BRAND, arises out of multiple incidents in which each of the plaintiffs, all of whom are severely disabled students, were physically and mentally abused while attending school in the Wilmington public schools. Plaintiffs seek relief through various federal, constitutional, and common law tort claims.

PARTIES

2. Plaintiff, CONNOR BISCAN, a minor, by ROBERTA BISCAN, his mother and next friend (hereinafter referred to as "Connor"), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
3. Plaintiff, ROBERTA BISCAN, individually, brings this lawsuit as parent of her incapacitated son, CONNOR, pursuant to Massachusetts General Laws Chapter 231, Section 85X. She is an individual residing in Wilmington, Middlesex County, Massachusetts.
4. Plaintiff, NATHAN BAPTISTA, a minor, by JENNIFER BAPTISTA, his mother and next friend (hereinafter referred to as "Nathan"), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
5. Plaintiffs, JENNIFER BAPTISTA and AARON BAPTISTA, individually, bring this lawsuit as parents of their incapacitated son, Nathan, pursuant to Massachusetts General

Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.

6. Plaintiff, ROBERT CONDELL, a minor, by SABRINA VELOZA, his mother and next friend (hereinafter referred to as "Robert"), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
7. Plaintiff, SABRINA VELOZA, individually, brings this lawsuit as parent of her incapacitated son, ROBERT, pursuant to Massachusetts General Laws Chapter 231, Section 85X. She is an individual residing in Wilmington, Middlesex County, Massachusetts.
8. Plaintiff RILEY CHMIEL, a minor, by KATHRYN MARSH, his mother and next friend (hereinafter referred to as "Riley"), is a resident of Shirley, Middlesex County, Commonwealth of Massachusetts.
9. Plaintiffs, KATHRYN MARSH, an individual residing in Shirley, Middlesex County, Massachusetts and MARK CHMIEL, an individual residing in Ayer, Middlesex County, Massachusetts, bring this lawsuit as parents of their incapacitated son, RILEY, pursuant to Massachusetts General Laws Chapter 231, Section 85X.
10. Plaintiff, CHLOE LAVORATO, a minor, by COLLEEN LAVORATO, her mother and next friend (hereinafter referred to as "Chloe"), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
11. Plaintiffs, COLLEEN LAVORATO and JOSEPH LAVORATO, individually, bring this lawsuit as parents of their incapacitated daughter, CHLOE, pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.

12. Plaintiff, ANTONINO LOFARO, a minor, by NICOLETTE DOUCETTE, his mother and next friend (hereinafter referred to as “Antonino”), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
13. Plaintiffs, NICOLETTE DOUCETTE and ROSARIO LOFARO, individually, bring this lawsuit as parents of their incapacitated son, ANTONINO, pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.
14. Plaintiff, JOHN LUTI, an incapacitated person, by his legal guardian JEANNETTE LUTI, is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
15. Plaintiff, JEANNETTE LUTI and RICHARD LUTI, individually, bring this lawsuit as parents of their incapacitated son, JOHN, pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.
16. Plaintiff, GABRIEL SANTRY, a minor, by CASSANDRA NICHOLS, his mother and next friend (hereinafter referred to as “Gabriel”), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
17. Plaintiff, CASSANDRA NICHOLS, individually, brings this lawsuit as parent of her incapacitated son, GABRIEL, pursuant to Massachusetts General Laws Chapter 231, Section 85X. She is an individual residing in Wilmington, Middlesex County, Massachusetts.
18. Plaintiff, CLIFTON CLARK, IV, a minor, by his mother and next friend ERIKA MELLSTROM, is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.

19. Plaintiffs, ERIKA MELLSTROM and CLIFTON CLARK, III, individually, bring this lawsuit as parents of their incapacitated son, CLIFTON CLARK, IV, pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.
20. Plaintiff, RIDLEY FUCILE, a minor, by his mother and next friend, SABRINA FUCILE, is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
21. Plaintiff, SABRINA FUCILE and ALLEN FUCILE, individually, bring this lawsuit as parents of their incapacitated daughter, RIDLEY, pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.
22. Defendant, TOWN OF WILMINGTON, is a body politic and corporate duly organized under the laws of the Commonwealth of Massachusetts, with a principal place of business of 121 Glen Road, Wilmington, Middlesex County, Commonwealth of Massachusetts.
23. The Town of Wilmington is responsible for the administration of the Wildwood School which is a public elementary school within and for the Town of Wilmington
24. Defendant KIMBERLY CUMMINGS (hereinafter "Cummings") is an individual residing at 24 Miller Road, Wilmington, Middlesex County, Commonwealth of Massachusetts.
25. Cummings was employed as a teacher for the Town of Wilmington from 2003 through 2021. Cummings was assigned to classroom 7 at the Wildwood School for seventeen years and Shawsheen School for one year in 2005. Her employment ended in May 2021 after DCF began its investigation.

26. Defendant, VICTORIA FITZGERALD (hereinafter "Fitzgerald"), is an individual residing at 6 Chandler Road, Wilmington, Middlesex County, Commonwealth of Massachusetts.
27. Defendant Fitzgerald was employed as an assistant teacher at the Wildwood School from February 2017 through May 2021. Her employment ended after DCF began its investigation. Fitzgerald worked with Cummings in Classroom 7 at Wildwood School throughout her employment.
28. Defendant KELLY FOGGERTY (hereinafter "Foggerty") is an individual with an address unknown to the Plaintiffs.
29. Foggerty was employed as a teacher for the Town of Wilmington at the Wildwood School for all times relevant hereto.
30. Defendant, JESSICA TALBOT (hereinafter "Talbot"), is an individual with an address unknown to the Plaintiffs.
31. Talbot was employed as an assistant teacher for the Town of Wilmington at the Wildwood School for all times relevant hereto. Talbot worked with Foggerty at Wildwood School for all times relevant hereto.
32. Defendant, ALICE BROWN-LEGRAND (hereinafter "Legrand"), is an individual residing at 65 Sandalwood Circle, Tewksbury, Middlesex County, Massachusetts.
33. Legrand was employed as the Director of Special Education for the Town of Wilmington, at all times relevant hereto.
34. Defendant, CHARLOTTE KING (hereinafter "King"), is an individual residing at an address unknown to the Plaintiffs.

35. KING was employed as the principal at Wildwood School for the Town of Wilmington from 2014 through 2021. Her employment ended after DCF began its investigation.
36. Defendant, GLENN BRAND (hereinafter "Brand"), is an individual residing at an address unknown to the Plaintiffs.
37. Brand was the superintendent for the public schools in and for the Town of Wilmington from in or about 2018 through the current date.
38. Defendant, PAUL RUGGIERO (hereinafter "Ruggiero"), is an individual residing at 47 Forest Street, Wilmington, Middlesex County, Massachusetts.
39. Ruggiero was the interim superintendent for the public schools in and for the Town of Wilmington at times relevant hereto.

FACTS COMMON TO ALL CLAIMS

40. The powers, duties and liabilities of Wildwood School and Shawsheen School are vested in and exercised by the Town of Wilmington.
41. At all times relevant to this action, Defendant, Town of Wilmington, employed all school staff, faculty, counselors, principals and superintendents at Wildwood School and Shawsheen School.
42. At all times relevant to this action, Wildwood School and Shawsheen School employees were acting under the color of law, under the color of their authority as Town of Wilmington employees, and within the scope of their employment with the Town of Wilmington.
43. At all times relevant to this action, Cummings, Fitzgerald, Foggerty, Talbot and Legrand were under the disciplinary authority of King, Brand, Ruggiero and the Town of Wilmington.

44. At all times relevant to this action, King was under the disciplinary authority of Brand, Ruggiero and the Town of Wilmington.
45. At all times relevant to this action, Brand and Ruggiero were under the disciplinary authority of the Town of Wilmington.
46. In 2005, Cummings physically abused and neglected John resulting in broken blood vessels in John's eyes. Cummings used poor judgment in her application of ABA teaching, was not truthful with the student's parents, and refused to allow the student to go to the school nurse to address the broken blood vessels.
47. The Town of Wilmington's school district failed to properly address this complaint with the student's parents for over two months.
48. Between 2008 and 2013, Cummings was observed by other Wildwood School staff members to have inappropriate and potentially harmful physical interactions with the pre-kindergarten and kindergarten students in her classroom, including using her foot to move non-verbal students across the floor, physically handling students in a rough manner and pulling students up by the underarms.
49. Staff members reported these incidents to school administrators.
50. In 2014 Cummings was suspended for five days without pay for falsifying data to the then principal. She was suspended for inefficiency, incompetency, conduct unbecoming a teacher, insubordination and other just causes.
51. From 2016 through 2021, Cummings was physically and verbally abusive to Nathan, Robert, Riley, Chloe, Antonino, Clifton and Ridley. These actions include:
 - a. used harsh language and bullied students in her classroom;
 - b. screamed at the students;

- c. pulled students by the back of their sweatshirts;
 - d. emptied students' water bottles to prevent them from drinking and urinating in the classroom;
 - e. ate the students' snacks;
 - f. withheld snacks from the students;
 - g. grabbed students by their wrist and dragged them to "time-out";
 - h. grabbed students by their wrist and dragged them to the nurse's office;
 - i. used forceful physical prompts;
 - j. forcefully put students onto their chairs;
 - k. ignored children when they cried in distress.
52. In 2020, Cummings was suspended without pay after she pushed a pre-kindergarten student's elbow off the table in a way that the child could have fallen, denied the child water and did not follow that child's individualized education plan (hereinafter "IEP"). Cummings was suspended for incompetency, conduct unbecoming a teacher and other just cause.
53. Although Cummings attended safety training, she did not complete certain parts of that training.
54. Fitzgerald was present in classroom 7 from 2017 through 2021 and observed Cummings commit the above stated abuses. Fitzgerald failed to take any action to stop the abuse. Fitzgerald failed to report any of the above stated abuse to the Department of Children and Families (hereinafter "DCF") as is required by law.
55. The school district failed and refused to report any of the above abuses to DCF as is required by law.

56. School staff members reported the abuse committed by Cummings to the school district, including King, Legrand, Ruggiero and Brand.
57. Legrand, King, Ruggiero and Brand were informed by various staff members and/or parents that Cummings had committed the above stated abuse but Legrand, King, Ruggiero and Brand failed to report the abuse to DCF.
58. Legrand, King, Ruggiero and Brand failed to impose appropriate disciplinary action against Cummings including requiring her to obtain retraining to correct her abusive behavior.

ROBERT

59. In March 2021, Robert was a three-year-old boy with autistic spectrum disorder including severe language impairment.
60. Robert attended Wildwood School in a preschool class from September 2020 through March 2021. Robert was placed in classroom 7 where Cummings was the primary teacher and Fitzgerald was the assistant teacher.
61. Shortly after entering classroom 7, Robert began kicking, refusing to go into classroom 7 and throwing tantrums in the hallway. He regressed with his disabilities and was not happy.
62. Robert came home from school with bruising thumbprint in size and shaped like fingerprints on his thighs which were consistent with someone holding him down by the legs. He also arrived home with bruising from his waist to his feet. He also had bumps on his head. On one occasion he came home in girls pants.
63. Robert's parents reported their concerns regarding Cummings' abusive behavior to the school administration, specifically including King.

- 64. As a result of Cummings' behavior, Robert regressed in many of his disability related issues.
- 65. After Robert's parents removed Robert from Cummings' classroom, Robert's regressions ceased and he began making significant improvements.
- 66. Robert has suffered severe physical and emotional distress, including feelings of anxiety.
- 67. Sabrina Veloza has suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

NATHAN

- 68. In February 2021, Nathan was a six-year-old boy with autistic spectrum disorder including severe language impairment.
- 69. Nathan attended Wildwood School in a preschool class from January 2018 through September 2020. During this time, he loved school. He did well in school and he made steady positive progress.
- 70. In September 2020, Nathan was moved to classroom 7 at Wildwood School. Shortly after being transferred to classroom 7, Nathan began to resist going to school. He regressed with his disabilities and was not happy.
- 71. In February 2021, Cummings injured Nathan's wrists while dragging him. Following this incident, Nathan's pediatrician filed a complaint with DCF.
- 72. On May 4, 2021, Cummings again physically injured Nathan. Nathan's pediatrician noted three ½ inch linear patterned yellow dotted bruises on Nathan's lower back.
- 73. Nathan would often say "no school, teacher hurt me". Nathan appeared traumatized when his parents brought him to classroom 7 and was reluctant to enter the classroom. Nathan would crumble into a ball when his parents mentioned the word "teacher".

74. Nathan's parents consistently reported their concerns regarding Cummings' abusive behavior to the school administration, specifically including King and Brand.
75. As a result of Cummings' behavior, Nathan often came home from school hungry, had increased staring spells, had increased emotional lability, had agitated behaviors, and had sleep difficulties and nightmares.
76. After Cummings was removed from classroom 7, Nathan's unresponsive staring stopped, his regressions ceased and he began making significant improvements.
77. Nathan continues to undergo trauma therapy to cope with Cummings' abusive behavior. Nathan has suffered severe physical and emotional distress, including feelings of anxiety.
78. Jennifer Baptista and Aaron Baptista have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

RILEY

79. In April 2021, Riley was a five-year-old boy with autistic spectrum disorder including severe language impairment.
80. Riley has attended Wilmington Schools since he was three years old. Prior to March 2021, he generally enjoyed school and was making progress with his disabilities and with general learning.
81. In or about March 29, 2021, Riley was assigned to classroom 7 at Wildwood School. Within the first week of being in classroom 7, Riley came home stating that he did not like school and did not want to go back.
82. Cummings regularly pulled Riley by the wrist and physically placed him in "time-out". On or about April 2, 2021, Cummings grabbed Riley by the wrist and left bruises consistent with finger marks on top of Riley's wrists. On or about April 30, 2021,

Cummings grabbed Riley by the wrist and again left bruises consistent with finger marks on top of Riley's wrists.

83. Cummings' actions caused Riley physical pain. Riley demonstrated how Cummings hurt his arm to the school adjustment counselor.
84. After being placed in classroom 7, Riley became more physically aggressive.
85. On or about May 3, 2021, Riley's mother reported these incidents to the Wilmington Superintendent's Office.
86. Riley has suffered severe physical and emotional distress, including feelings of anxiety.
87. Kathryn Marsh and Mark Chmiel have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

ANTONINO

88. In September 2016, Antonino was a five-year-old boy with an autistic spectrum disorder including severe language impairment.
89. Antonino attended Wilmington Schools since 2015. He generally enjoyed school and was making progress with his disabilities and with general learning.
90. In or about September 2016 Antonino was assigned to classroom 7 at Wildwood School. Within a couple of months, Antonino became physically aggressive at home and refused to go to school.
91. Cummings failed and refused to follow Antonino's IEP.
92. Antonino was sent to school every day with multiple outfits and pull-ups due to his toileting issues. Cummings failed to put a pull-up on Antonino causing him to soil his clothing. Cummings would make him wear girl's pants despite the fact that he had clean pants of his own to wear.

93. Antonino's parents removed Antonino from classroom 7 in the Summer of 2017. After he was removed, Antonino made steady progress in school.
94. Antonino has suffered severe physical and emotional distress, including feelings of anxiety.
95. Nicolette Doucette and R sario Lofaro have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

CHLOE

96. In October 2014, Chloe was a three-year-old girl with autistic spectrum disorder including severe language impairment.
97. Chloe began pre-school in September 2014. At that time, Chloe was in a classroom where Foggerty was the teacher.
98. Foggerty was verbally and physically abusive to Chloe.
99. Chloe came home from school with marks and bruises on her body and face. On October 23, 2014 she came home with a bump on her forehead. On October 28, 2014, she came home with swollen lips. On November 13, 2014, she came home with cuts to her eye socket. On November 17, 2014, she came home with scratches on her neck. Chloe's anxiety increase dramatically during this time.
100. In or about 2016, Chloe began kindergarten in classroom 7 at Wildwood School.
101. Cummings was verbally and physically abusive to Chloe. When Chloe became emotional or upset and began to cry, Cummings yelled at her to knock it off. Cummings used harsh language and bullied Chloe.
102. At times, Cummings refused to give Chloe her lunch. Chloe would often come home from school hungry despite the fact that Chloe went to school with sufficient food.

103. Chloe's mother made multiple complaints to King, Legrand, Ruggiero and the School Committee regarding Foggerty and Cummings' abusive behavior. Chloe's mother requested that King, Legrand and Ruggiero file complaints with DCF, but they refused. Chloe's mother filed her own complaint with DCF on March 30, 2018.
104. Chloe's parents removed Chloe from classroom 7 and the Wildwood School out of concern for her safety.
105. Chloe's parents had to hire an attorney to force the Town of Wilmington to provide Chloe with an out-of-district placement.
106. During this period of time, Chloe did not have a school to go to. It was an extremely stressful and emotional time for Chloe and her parents.
107. Once in the new out-of-district school, Chloe started to receive incredible services and made progress in disability related issues and general learning.
108. As a result of Foggerty and Cummings' actions, Chloe suffers from PTSD, panic attacks and anxiety. Chloe has suffered severe physical and emotional distress, including feelings of anxiety.
109. Colleen Lavorato and Joseph Lavorato have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

JOHN

110. In August 2005, John was an eight-year-old boy with autistic spectrum disorder including severe language impairment.
111. In August 2005, John was in a classroom at Shawsheen School and Cummings was his primary teacher.

112. In August 2005 Cummings put John in a chair, pushed him tight up against a table and sat directly behind him. Cummings would not let John move for almost an hour. Cummings grabbed John under the arms several times, forcing him to sit up. During this time, John was screaming. As a result of this incident, John developed broken blood vessels in his eyes. An assistant teacher asked Cummings to send John to the school nurse to be seen for his eyes, but Cummings refused to allow this to happen. Cummings was not truthful with John's parents regarding the broken blood vessels.
113. The Town of Wilmington's school district failed to properly address this complaint with John's parents for over two months.
114. John's parents removed John from Cummings' class.
115. John has suffered severe physical and emotional distress, including feelings of anxiety.
116. Jeanette Luti and Richard Luti have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

CONNOR

117. In May 2010, Connor was a five-year-old boy with autistic spectrum disorder including severe language impairment.
118. Connor attended Wildwood School's pre-school program from September 2007 through June 2009. During this time period, Connor enjoyed school and made great strides in his vocabulary.
119. In September 2009, Connor started kindergarten in classroom 7. After the first week, Connor came home from school crying. He did not want to go back to school. He kept saying that his teacher was mean.

120. Cummings would grab Connor in an aggressive manner. Connor came home from school on multiple occasions with bruises and scratches on his face and back. He also had bruises on his side and legs.
121. On one occasion, Connor came home with a large bruise in the area of his tailbone. Connor told his mother that Cummings had pushed him.
122. Connor's mother reported the abuse to the schools administration, but no action was taken.
123. In February 2010, Connor's parents demanded that the school transfer Connor away from Cummings out of concern for his safety. In March 2010, Connor was moved to a different classroom.
124. Connor has suffered severe physical and emotional distress, including feelings of anxiety.
125. Roberta Biscan has suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

GABRIEL

126. In March 2020, Gabriel was a three-year-old boy with autistic spectrum disorder including severe language impairment.
127. At all times relevant hereto, Gabriel was in a classroom where Foggerty was the teacher and Talbot was an assistant teacher.
128. In 2019 and 2020, Talbot physically abused Gabriel. Talbot squeezed Gabriel's arms and neck hard enough to cause pain to Gabriel. Talbot hurt Gabriel when she rubbed Gabriel's chest (similar to a sternum rub).
129. Gabriel's mother reported her concerns to King but King failed to report the matter to DCF or to impose any disciplinary action on Talbot.

- 130. Gabriel has suffered severe physical and emotional distress, including feelings of anxiety.
- 131. Cassandra Nichols has suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

CLIFTON

- 132. In October 2018, Clifton was a three-year-old boy with autistic spectrum disorder including severe language impairment.
- 133. Clifton attended Wildwood School's pre-school program from October 2018 through September 2019. During this time period, Clifton enjoyed school.
- 134. In September 2019, Clifton was moved to classroom 7. Clifton was physically and emotionally abused by Cummings.
- 135. Cummings failed to prompt Clifton to get up and throw away his lunch. Cummings left Clifton sitting at a table for over thirty minutes despite the fact that Clifton was obviously upset.
- 136. Cummings sharply pushed Clifton's elbows off the table, while his chin was resting in his hands, causing Clifton's chin to strike the table. Cummings yelled at Clifton to sit up, grabbed Clifton's chair and sharply pushed it in. Cummings ignored Clifton's request to use the bathroom. Cummings refused to allow Clifton to go to his inclusion class as was required under his individualized education plan (hereinafter "IEP"). Throughout this ordeal, Clifton was crying and saying he did not know what to do while Cummings ignored him for hours.
- 137. The above incident was reported to King by an assistant teacher. Cummings was suspended for a few days. King did not report this incident to DCF or require any retraining.

138. In September 2020, Clifton was transferred to a different room with a different teacher. After this transfer, Clifton began making great progress with his disability issues and his education.
139. Clifton has suffered physical and emotional distress.
140. Erika Mellstrom and Clifton Clark, III have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

RIDLEY

141. In March 2020, Ridley was a five-year-old girl with autistic spectrum disorder including severe language impairment.
142. Ridley attended Wildwood School in classroom 7. Cummings would grab and slam Ridley down in a chair and then ignore Ridley as she cried. Ridley came home from school with bruising on her buttock.
143. On at least one occasion, Cummings grabbed Ridley, took her to a chair, slammed her down in the chair and ignored her as Ridley screamed.
144. Ridley's parents attempted to talk to the Superintendent about these issues, but he failed and refused to return their call.
145. Ridley has suffered severe physical and emotional distress, including feelings of anxiety.
146. Sabrina Fucile and Allen Fucile have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

COUNT I - Negligence

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro, John Luti, Gabriel Santry, Clifton Clark, IV and Ridley Fucile

v.

Town of Wilmington

147. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
148. Defendant Town of Wilmington owed a duty to exercise reasonable care for the protection of the Plaintiffs against misconduct and inappropriate conduct and/or contact by Cummings, Foggerty and Talbot.
149. Based on the conduct described above, Defendant Town of Wilmington was aware or should have been aware of the fact that Cummings, Foggerty and Talbot were subjecting their students to physical and emotional abuse which posed safety risks to the students.
150. Based on the conduct described above, Defendant Town of Wilmington was aware or should have been aware of the fact that Fitzgerald was allowing Cummings to subject her students to physical and emotional abuse which posed safety risks to the students.
151. Defendant Town of Wilmington breached that duty by negligently failing to train, supervise, and otherwise failing to make scheduling and staffing decisions to ensure that all students were not emotionally and physically abused and received proper supervision.
152. Defendant Town of Wilmington, through its administrators and staff, including Defendants Fitzgerald, King, Legrand, Ruggiero and Brand, failed to supervise Cummings, Foggerty and Talbot in a manner to prevent and discover Cummings, Foggerty and Talbot's physical and emotional abuse.

153. Presentment of this claim was made pursuant to Massachusetts General Laws, Chapter 258 §4.
154. By its actions, Defendant Town of Wilmington is the direct and proximate cause of the physical and emotional abuse endured by the Plaintiffs.
155. As a direct and proximate result of the foregoing, Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs demand judgment against Defendant Town of Wilmington for all compensatory damages recoverable; costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT II – 42 U.S.C. §1983

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro, John Luti, Gabriel Santry, Clifton Clark, IV and Ridley Fucile
v.
Town of Wilmington

156. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
157. Defendant Town of Wilmington acted by and through its agents.
158. Defendant Town of Wilmington violated the Plaintiffs' rights as residents of the United States pursuant to 42 U.S.C. §1983 and §1988.
159. Defendant Town of Wilmington had a duty to exercise reasonable care in the selection and retention of employees and to provide and ensure an educational environment for the Plaintiffs that was free from physical and emotional abuse and to enforce the regulations, rules, and laws necessary to protect the Plaintiffs and other students from acts of physical and emotional abuse of Cummings, Foggerty and Talbot.

160. Defendant Town of Wilmington failed to properly train and supervise employees and/or discipline them in order to avoid physical and emotional abuse and inadequate supervision.
161. By these failures, Defendant the Town of Wilmington adopted, approved, and/or enforced a policy, practice, and custom tolerating the violation of constitutional rights.
162. The affirmative acts of the Defendant Town of Wilmington, including, but not limited to, its implementation of customs, practices and/or policies that resulted in a failure to properly train and supervise its employees regarding required procedures for investigating and responding to reports of abuse, were the moving force and/or direct causal link to the physical and emotional abuse suffered by the Plaintiffs and were so extreme and egregious as to shock the conscience.
163. Defendant Town of Wilmington intentionally, willfully, and without justification deprived Plaintiffs of their rights, privileges, and immunities secured to them by the Constitution and the laws of the United States, including but not limited to, their rights to due process and to be free from physical and emotional abuse as provided by the Fourteenth Amendment of the Constitution, in violation of 42 U.S.C. §1983.
164. As a direct and proximate result of the foregoing, Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Town of Wilmington for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT III - 794 U.S.C. §504

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro, John Luti Gabriel Santry, Clifton Clark, IV and Ridley Fucile

v.

Town of Wilmington

165. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
166. 794 U.S.C. § 504 requires recipients of federal funding to provide an appropriate education to all qualified handicapped persons who are in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.
167. Defendant Town of Wilmington is a recipient of federal financial assistance, including federal financial assistance provided to its schools, special education departments, and Section 504 programs.
168. Recipients of federal financial assistance must provide regular or special education and related aids and services designed to meet the individual educational needs of disabled persons so that the needs of disabled persons are adequately met and may not discriminate on the basis of disability in providing these services.
169. Pursuant to 29 U.S.C. § 794, Defendant Town of Wilmington, by and through its staff, are required to establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of Free and Appropriate Public Education ("FAPE").
170. Defendant Town of Wilmington, by and through its staff, grossly and substantially departed from accepted professional judgment, practice, or standards when they did not

provide the Plaintiffs with protection from physical and emotional abuse and proper supervision.

171. Defendant Town of Wilmington, through its staff, intentionally and deliberately failed and refused to implement proper accommodations despite their obligation to do so and instead allowed Plaintiffs to be abused by Kimberly Cummings, Kelly Fogerty and Jessica Talbot.
172. Defendant Town of Wilmington, through its staff, further discriminated against Plaintiffs by treating the Plaintiffs differently than their non-disabled peers.
173. As a direct and proximate result of Defendant Town of Wilmington's deliberate and intentional actions and violations as described above, Plaintiffs were denied access to their education in violation of 794 U.S.C. § 504.
174. As a direct and proximate result of Defendant Town of Wilmington's discriminatory actions, Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Town of Wilmington for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT IV - M.G.L. Chapter 93 §103

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro, John Luti Gabriel Santry, Clifton Clark, III and Ridley Fucile

v.

Town of Wilmington, Kimberly Cummings, Victoria Fitzgerald, Kelly Fogerty, Jessica Talbot, Alice Brown-Legrand, Paul Ruggiero, Charlotte King and Glenn Brand

175. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.

176. Each and all of the Defendants violated Plaintiffs rights as handicapped persons in the Commonwealth of Massachusetts to the full and equal benefit of all laws and proceedings for the security of persons, including, but not limited to, the rights secured under Article CXIV of the Amendments to the Constitution, and pursuant to G.L. c. 93, §103.
177. Each of the Defendants intentionally and deliberately failed and refused to implement proper accommodations despite their obligation to do so and instead allowed Plaintiffs to be physically and emotionally abused by Kimberly Cummings, Kelly Foggerty and Jessica Talbot, depriving them of the full and equal benefit of all laws and constitutional rights.
178. As a direct and proximate result of the foregoing, Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against each of the Defendants for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT V - Intentional Infliction of Emotional Distress

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro, John Luti Gabriel Santry, Clifton Clark, III and Ridley Fucile

v.

Town of Wilmington, Kimberly Cummings, Victoria Fitzgerald, Kelly Foggerty, Jessica Talbot, Alice Brown-Legrand, Paul Ruggiero, Charlotte King and Glenn Brand

179. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
180. Each and all of the Defendants intended to inflict emotional distress or, they knew or should have known that emotional distress was the likely result of their conduct, when

they physically and emotionally abused or allowed others to physically and emotionally abuse the Plaintiffs.

181. Defendants' conduct in physically and emotionally abusing or allowing others to physically and emotionally abuse disabled students in their care was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community.
182. Defendants conduct caused the Plaintiffs distress of a nature so severe that no reasonable person could be expected to endure it.
183. As a direct and proximate result of Defendants' actions, the Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs demand judgment against each Defendant for all compensatory damages recoverable; all costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT VI - 42 U.S.C. §1983

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro, John Luti Gabriel Santry, Clifton Clark, III and Ridley Fucile

v.

Charlotte King, Alice Brown-Legrand, Paul Ruggiero and Glenn Brand

184. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
185. At all material times, Defendants King, Legrand, Ruggiero and Brand had the duty and responsibility to constitutionally hire, train, instruct, monitor, supervise, evaluate, investigate, staff, and discipline the Defendants Cummings, Fitzgerald, Foggerty and Talbot as well as all other employees and agents of Wildwood School.

186. Defendants King, Legrand, Foggerty and Brand failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline Cummings, Fitzgerald, Foggerty, Talbot and other employees of the Wildwood School, with deliberate indifference to the Plaintiffs' constitutional rights, which were thereby violated as described above.
187. As supervisors, Defendants King, Legrand, Ruggiero and Brand, each permitted and failed to prevent the unconstitutional acts of Defendants Cummings, Fitzgerald, Foggerty and Talbot, individuals under their supervision and control, and failed to properly supervise such individuals, with deliberate indifference to the rights and serious needs of the Plaintiffs. Each of these supervising Defendants either directed his or her subordinates in conduct that violated the Plaintiffs' rights, or set in motion a series of acts and omissions by his or her subordinates that the supervisor knew or reasonably should have known would deprive the Plaintiffs of rights, or knew his or her subordinates were engaging in acts likely to deprive the Plaintiffs of rights and failed to act to prevent his or her subordinate from engaging in such conduct, or disregarded the consequence of a known or obvious training deficiency that he or she must have known would cause subordinates to violate the Plaintiffs rights, and in fact did cause the violation of the Plaintiffs rights. Furthermore, each of these supervising Defendants is liable in their failures to intervene in their subordinates' obvious violations of the Plaintiffs' rights.
188. The unconstitutional customs, policies, practices, and/or procedures of Defendant Town of Wilmington, stated herein, were directed, encouraged, allowed, and/or ratified by policymaking officers for Defendant Town of Wilmington, including Defendants King, Legrand, Ruggiero and Brand, with deliberate indifference to the Plaintiffs' and others' constitutional rights, which were thereby violated as described above.

189. The unconstitutional actions and/or omissions of Defendants Cummings, Fitzgerald, Foggerty and Talbot, as described above, were approved, tolerated, and/or ratified by policymaking officers for the Town of Wilmington, including Defendants King, Legrand, Ruggiero and Brand.
190. The details of the above-described incidents were revealed to Defendants King, Legrand, Ruggiero and Brand.
191. Notwithstanding this knowledge, Defendants King, Legrand, Ruggiero and Brand have approved and ratified the conduct and decisions of Defendants Cummings, Fitzgerald, Foggerty and Talbot in this matter, and have made a deliberate choice to endorse such conduct and decisions, and the basis for them.
192. By so doing, Defendants King, Legrand, Ruggiero and Brand have shown affirmative agreement with Defendants Cummings, Fitzgerald, Foggerty and Talbot's actions and have ratified their unconstitutional acts.
193. These customs, policies, practices, and procedures; the failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline; and the unconstitutional orders, approvals, ratification, and toleration of wrongful conduct of Defendants Cummings, Fitzgerald, Foggerty and Talbot were a moving force and/or a proximate cause of the deprivations of the Plaintiffs' clearly established and well-settled constitutional rights in violation of 42 U.S.C.A. § 1983, as more fully set forth above.
194. Defendants King, Legrand, Ruggiero and Brand subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of rights described herein, knowingly, maliciously, and with

conscious and reckless disregard for whether the rights and safety of Plaintiffs would be violated by their acts and/or omissions.

195. As a direct and proximate result of the unconstitutional actions, omissions, customs, policies, practices, and procedures of Defendants King, Legrand, Ruggiero and Brand as described above, the Plaintiffs sustained serious and permanent injuries and are entitled to damages, penalties, costs, and attorneys' fees.
196. As a direct and proximate result of the foregoing, the Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendants Charlotte King, Alice Brown-Legrand, Paul Ruggiero and Glenn Brand for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT VII - 42 U.S.C. § 1983

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro and John Luti, Clifton Clark, IV and Fucile

v.

Kimberly Cummings

197. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
198. Defendant Cummings, while acting under color of law, physically and emotionally abused the Plaintiffs and thereby violated their clearly established rights under the Fourteenth Amendments to the United States Constitution.
199. Defendant Cummings acted with reckless disregard for Plaintiffs' constitutional rights.

200. As a direct and proximate result of Defendant Cummings discriminatory actions, the Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Kimberly Cummings for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT VIII - Assault and Battery

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro, John Luti, Clifton Clark, IV and Ridley Fucile

v.

Kimberly Cummings

201. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
202. Defendant Cummings committed the tort of assault and battery against the Plaintiffs by assaulting and battering them without legal justification, cause, excuse, or privilege.
203. As a direct and proximate result of Defendant Cummings' actions, Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs demand judgment against Defendant Kimberly Cummings for all compensatory damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT IX - Massachusetts Civil Rights Act, M.G.L. c. 12 § 11I

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro, John Luti, Clifton Clark, IV and Ridley Fucile

v.

Kimberly Cummings

204. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
205. By means of use of threats, intimidation and coercion, defendant Cummings violated the civil rights of the Plaintiffs under the laws of the Commonwealth of Massachusetts.

206. As a direct and proximate result of Defendant Cummings' actions, Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Kimberly Cummings for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT X - 42 U.S.C. § 1983

Connor Biscan, Nathan Baptista, Robert Condell, Riley Chmiel, Chloe Lavorato, Antonino Lofaro, John Luti, Clifton Clark, IV and Ridley Fucile

v.

Victoria Fitzgerald

207. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.

208. Defendant Fitzgerald, while acting under color of law, stood by and allowed Defendant Cummings to physically and emotionally abuse the Plaintiffs and thereby violated their clearly established rights under the Fourteenth Amendment to the United States Constitution.

209. Defendant Fitzgerald acted with reckless disregard for the Plaintiffs' constitutional rights.

210. As a direct and proximate result of the foregoing, Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Victoria Fitzgerald for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XI - 42 U.S.C. § 1983

Gabriel Santry v. Jessica Talbot

211. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
212. Defendant Talbot, while acting under color of law, physically and emotionally abused the Plaintiff and thereby violated his clearly established rights under the Fourteenth Amendments to the United States Constitution.
213. Defendant Talbot acted with reckless disregard for Plaintiff's constitutional rights.
214. As a direct and proximate result of Defendant Talbot's discriminatory actions, the Plaintiff suffered physical injury, indignity, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Jessica Talbot for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XII - Assault and Battery

Gabriel Santry v. Jessica Talbot

215. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
216. Defendant Talbot committed the tort of assault and battery against the Plaintiff by assaulting and battering him without legal justification, cause, excuse, or privilege.
217. As a direct and proximate result of Defendant Talbot's actions, Plaintiff suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Jessica Talbot for all compensatory damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XIII - Massachusetts Civil Rights Act, M.G.L. c. 12 § 11I

Gabriel Santry v. Jessica Talbot

218. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
219. By means of use of threats, intimidation and coercion, defendant Talbot violated the civil rights of the Plaintiff under the laws of the Commonwealth of Massachusetts.
220. As a direct and proximate result of Defendant Talbot's actions, Plaintiff suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Jessica Talbot for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XIV - 42 U.S.C. § 1983

Chloe Lavorato v. Kelly Foggerty

221. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
222. Defendant Foggerty, while acting under color of law, physically and emotional abused the Plaintiff and thereby violated her clearly established rights under the Fourteenth Amendments to the United States Constitution.
223. Defendant Foggerty acted with reckless disregard for Plaintiff's constitutional rights.
224. As a direct and proximate result of Defendant Foggerty's discriminatory actions, the Plaintiff suffered physical injury, indignity, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Foggerty for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XV - Assault and Battery

Chloe Lavorato v. Kelly Foggerty

225. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
226. Defendant Foggerty committed the tort of assault and battery against the Plaintiff by assaulting and battering her without legal justification, cause, excuse, or privilege.
227. As a direct and proximate result of Defendant Foggerty's actions, Plaintiff suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Kelly Foggerty for all compensatory damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XVI - Massachusetts Civil Rights Act, M.G.L. c. 12 § 11I

Chloe Lavorato v. Kelly Foggerty

228. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
229. By means of use of threats, intimidation and coercion, defendant Kelly Foggerty violated the civil rights of the Plaintiff under the laws of the Commonwealth of Massachusetts.
230. As a direct and proximate result of Defendant Kelly Foggerty's actions, Plaintiff suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Kelly Foggerty for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XVII - Loss of Consortium under M.G.L. c. 231, § 85X

Roberta Biscan, Jennifer Baptista, Aaron Baptista, Sabrina Veloza, Kathryn Marsh, Mark Chmiel, Colleen Lavorato, Joseph Lavorato, Nicolette Doucette, Rosario Lofaro, Jeannette Luti, Richard Luti, Cassandra Nichols, Erika Mellstrom, Clifton Clark, III, Sabrina Fucile and Allen Fucile

v.

Town of Wilmington, Kimberly Cummings, Victoria Fitzgerald, Kelly Foggerty, Jessica Talbot, Alice Brown-Legrand, Paul Ruggiero, Charlotte King and Glenn Brand

231. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
232. Plaintiff Roberta Biscan is the parent of Connor Biscan, an intellectually disabled child who is totally dependent on his parent for support.
233. Plaintiffs Jennifer Baptista and Aaron Baptista are the parents of Nathan Baptista, an intellectually disabled child who is totally dependent on his parents for support.
234. Plaintiff Sabrina Veloza is the parent of Robert Condell, an intellectually disabled child who is totally dependent on his parent for support.
235. Kathryn Marsh and Mark Chmiel are the parents of Riley Chmiel, an intellectually disabled child who is totally dependent on his parents for support.
236. Plaintiffs Colleen Lavorato and Joseph Lavorato are the parents of Chloe Lavorato, an intellectually disabled child who is totally dependent on her parents for support.
237. Plaintiffs Nicolette Doucette and Rosario Lofaro are the parents of Antonino Doucette, an intellectually disabled child who is totally dependent on his parents for support.
238. Plaintiffs Jeannette Luti and Richard Luti are the parents of John Luti, an intellectually disabled child who is totally dependent on his parents for support.
239. Plaintiff Cassandra Nichols is the parent of Gabriel Santry, an intellectually disabled child who is totally dependent on his parent for support.

240. Plaintiffs Erika Mellstrom and Clifton Clark, III are the parents of Clifton Clark, IV, an intellectually disabled child who is totally dependent on his parents for support.
241. Plaintiffs Sabrina Fucile and Allen Fucile are the parents of Ridley Fucile, an intellectually disabled child who is totally dependent on his parents for support.
242. In accordance with M.G.L. c. 231, § 85X, Plaintiffs each have a cause of action for loss of consortium of their child, against each of the Defendants who are responsible for causing their injury.

WHEREFORE, the Plaintiffs, demand judgment against each of the Defendants for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL CLAIMS.

Plaintiffs,
By their attorney

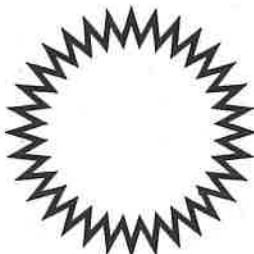
/s/ Richard M. Welsh, Jr.
Richard M. Welsh, Jr., Esq., BBO# 552732
LAW OFFICE OF HOWARD M. KAHALAS
6 Beacon Street, Suite 1020
Boston, Massachusetts 02108
(617) 523-1155
rwelsh@kahalaslaw.com

March 23, 2023

MIDDLESEX, ss.

Commonwealth of Massachusetts

SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT



In testimony that the foregoing is a true copy on file and of record made by photographic process, I hereunto set my hand and affix the seal of said Superior Court this 26th day of May 2023.

Bernard
Deputy Assistant Clerk

DOCKET NUMBER

Trial Court of Massachusetts
The Superior Court



CIVIL ACTION COVER SHEET

23-868

COUNTY

Plaintiff	Roberta Biscan	Defendant:	Town of Wilmington
ADDRESS:	119 Grove Avenue, Wilmington, MA 01887	ADDRESS:	121 Glen Road, Wilmington, MA 01887
Plaintiff Attorney:	Richard M. Welsh, Jr.	Defendant:	Kimberly Cummings
ADDRESS:	Law Offices of Howard M. Kahalas 6 Beacon Street, Suite 1020, Boston, MA 02108	ADDRESS:	24 Miller Road, Wilmington, MA 01887
BBO:	552732		
Plaintiff:	Jennifer Baptista and Aaron Baptista	Defendant:	Victoria Fitzgerald
ADDRESS:	132 Federal Street, Wilmington, MA 01887	ADDRESS:	6 Chandler Road, Wilmington, MA 01887
Plaintiff:	Sabrina Veloza	Defendant:	Kelly Foggerty
ADDRESS:	5 Towpath Drive, Wilmington, MA 01887	ADDRESS:	Address Unknown
Plaintiff:	Kathryn Marsh and Mark Chmiel	Defendant:	Jessica Talbot
ADDRESS:	7 Shaker Road, Shirley, MA 01464	ADDRESS:	Address Unknown
Plaintiff:	Colleen Lavorato and Joseph Lavorato	Defendant:	Alice Brown-Legend
ADDRESS:	5 Ox Bow Drive, Wilmington, MA 01887	ADDRESS:	65 Sandalwood Circle, Tewksbury, MA
Plaintiff:	Nicolette Doucette and Rosario Lofaro	Defendant:	Charlotte King
ADDRESS:	3213 Avalon Drive, Wilmington, MA 01887	ADDRESS:	Address Unknown
Plaintiff:	Jeannette Luti and Richard Luti	Defendant:	Glenn Brand
ADDRESS:	108 Woburn Street, Wilmington, MA 01887	ADDRESS:	Address Unknown
Plaintiff:	Cassandra Nichols	Defendant:	Paul Ruggiero
ADDRESS:	2 Middlesex Avenue, Swampscott, MA 01907	ADDRESS:	47 Forest Street, Wilmington, MA 01887
Plaintiff:	Erika Mellstrom and Clifton Clark, III	Defendant:	
ADDRESS:	4 Fall Street, Wilmington, MA 01887	ADDRESS:	
Plaintiff:	Sabrina Fucile and Allen Fucile	Defendant Attorney:	
ADDRESS:	1401 Pouliot Place, Wilmington, MA 01887	ADDRESS:	
		BBO:	

RECEIVED

3/25/2023

HG

TYPE OF ACTION AND TRACK DESIGNATION (see instructions section on next page)

CODE NO.

AB1

TYPE OF ACTION (specify)

Civil Rights

TRACK

A

HAS A JURY CLAIM BEEN MADE?

☒ YES☐ NO

*If "Other" please describe:

Is there a claim under G.L. c. 93A?

☐ YES☒ NO

Is there a class action under Mass. R. Civ. P. 23?

☐ YES☒ NO**STATEMENT OF DAMAGES REQUIRED BY G.L. c. 212, § 3A**

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff's counsel relies to determine money damages. (Note to plaintiff: for this form, do not state double or treble damages; indicate single damages only.)

TORT CLAIMS**A. Documented medical expenses to date**

1. Total hospital expenses	\$0.00
2. Total doctor expenses	\$5,000.00
3. Total chiropractic expenses	\$0.00
4. Total physical therapy expenses	\$0.00
5. Total other expenses (describe below)	\$0.00

Subtotal (1-5): \$5,000.00

B. Documented lost wages and compensation to date

\$0.00

C. Documented property damages to date

\$0.00

D. Reasonably anticipated future medical and hospital expenses

\$0.00

E. Reasonably anticipated lost wages

\$0.00

F. Other documented items of damages (describe below)

\$0.00

TOTAL (A-F): \$5,000.00

G. Briefly describe plaintiff's injury, including the nature and extent of the injury:

Minor Plaintiffs suffered soft tissue injuries and emotional distress. Parents suffered loss of consortium and emotional distress

CONTRACT CLAIMS☐ This action includes a claim involving collection of a debt incurred pursuant to a revolving credit agreement. Mass. R. Civ. P. 8.1(a).

Item #	Detailed Description of Each Claim	Amount
1.		
Total		

Signature of Attorney/Self-Represented Plaintiff: X /s/ Richard M. Welsh, Jr.

Date: March 23, 2023

RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.**CERTIFICATION UNDER S.J.C. RULE 1:18(5)**

I hereby certify that I have complied with requirements of Rule 5 of Supreme Judicial Court Rule 1:18: Uniform Rules on Dispute Resolution, requiring that I inform my clients about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

Signature of Attorney: X /s/ Richard M. Welsh, Jr.

Date: March 23, 2023

CIVIL ACTION COVER SHEET INSTRUCTIONS

SELECT A CATEGORY THAT BEST DESCRIBES YOUR CASE*

AC Actions Involving the State/Municipality†

- AA1 Contract Action involving Commonwealth, Municipality, MBTA, etc. (A)
AB1 Tortious Action involving Commonwealth, Municipality, MBTA, etc. (A)
AC1 Real Property Action involving Commonwealth, Municipality, MBTA etc. (A)
AD1 Equity Action involving Commonwealth, Municipality, MBTA, etc. (A)
AE1 Administrative Action involving Commonwealth, Municipality, MBTA, etc. (A)

CN Contract/Business Cases

- A01 Services, Labor, and Materials (F)
A02 Goods Sold and Delivered (F)
A03 Commercial Paper (F)
A04 Employment Contract (F)
A05 Consumer Revolving Credit - M.R.C.P. 8.1 (F)
A06 Insurance Contract (F)
A08 Sale or Lease of Real Estate (F)
A12 Construction Dispute (A)
A14 Interpleader (F)
BA1 Governance, Conduct, Internal Affairs of Entities (A)
BA3 Liability of Shareholders, Directors, Officers, Partners, etc. (A)
BB1 Shareholder Derivative (A)
BB2 Securities Transactions (A)
BC1 Mergers, Consolidations, Sales of Assets, Issuance of Debt, Equity, etc. (A)
BD1 Intellectual Property (A)
BD2 Proprietary Information or Trade Secrets (A)
BG1 Financial Institutions/Funds (A)
BH1 Violation of Antitrust or Trade Regulation Laws (A)
A99 Other Contract/Business Action - Specify (F)

* See Superior Court Standing Order 1-88 for an explanation of the tracking deadlines for each track designation: F, A, and X. On this page, the track designation for each case type is noted in parentheses.

†* Choose this case type if ANY party is the Commonwealth, a municipality, the MBTA, or any other governmental entity UNLESS your case is a case type listed under Administrative Civil Actions (AA).

‡ Choose this case type if ANY party is an incarcerated party, UNLESS your case is a case type listed under Administrative Civil Actions (AA) or is a Prisoner Habeas Corpus case (E97).

ER Equitable Remedies

- D01 Specific Performance of a Contract (A)
D02 Reach and Apply (F)
D03 Injunction (F)
D04 Reform/ Cancel Instrument (F)
D05 Equitable Replevin (F)
D06 Contribution or Indemnification (F)
D07 Imposition of a Trust (A)
D08 Minority Shareholder's Suit (A)
D09 Interference in Contractual Relationship (F)
D10 Accounting (A)
D11 Enforcement of Restrictive Covenant (F)
D12 Dissolution of a Partnership (F)
D13 Declaratory Judgment, G.L. c. 231A (A)
D14 Dissolution of a Corporation (F)
D99 Other Equity Action (F)

PA Civil Actions Involving Incarcerated Party ‡

- PA1 Contract Action involving an Incarcerated Party (A)
PB1 Tortious Action involving an Incarcerated Party (A)
PC1 Real Property Action involving an Incarcerated Party (F)
PD1 Equity Action involving an Incarcerated Party (F)
PE1 Administrative Action involving an Incarcerated Party (F)

TR Torts

- B03 Motor Vehicle Negligence - Personal Injury/Property Damage (F)
B04 Other Negligence - Personal Injury/Property Damage (F)
B05 Products Liability (A)
B06 Malpractice - Medical (A)
B07 Malpractice - Other (A)
B08 Wrongful Death - Non-medical (A)
B15 Defamation (A)
B19 Asbestos (A)
B20 Personal Injury - Slip & Fall (F)
B21 Environmental (F)
B22 Employment Discrimination (F)
BE1 Fraud, Business Torts, etc. (A)
B99 Other Tortious Action (F)

RP Summary Process (Real Property)

- S01 Summary Process - Residential (X)
S02 Summary Process - Commercial/ Non-residential (F)

RP Real Property

- C01 Land Taking (F)
C02 Zoning Appeal, G.L. c. 40A (F)
C03 Dispute Concerning Title (F)
C04 Foreclosure of a Mortgage (X)
C05 Condominium Lien & Charges (X)
C99 Other Real Property Action (F)

MC Miscellaneous Civil Actions

- E18 Foreign Discovery Proceeding (X)
E97 Prisoner Habeas Corpus (X)
E22 Lottery Assignment, G.L. c. 10, § 28 (X)

AB Abuse/Harassment Prevention

- E15 Abuse Prevention Petition, G.L. c. 209A (X)
E21 Protection from Harassment, G.L. c. 258E(X)

AA Administrative Civil Actions

- E02 Appeal from Administrative Agency, G.L. c. 30A (X)
E03 Certiorari Action, G.L. c. 249, § 4 (X)
E05 Confirmation of Arbitration Awards (X)
E06 Mass Antitrust Act, G.L. c. 93, § 9 (A)
E07 Mass Antitrust Act, G.L. c. 93, § 8 (X)
E08 Appointment of a Receiver (X)
E09 Construction Surety Bond, G.L. c. 149, §§ 29, 29A (A)
E10 Summary Process Appeal (X)
E11 Worker's Compensation (X)
E16 Auto Surcharge Appeal (X)
E17 Civil Rights Act, G.L. c.12, § 11H (A)
E24 Appeal from District Court Commitment, G.L. c.123, § 9(b) (X)
E94 Forfeiture, G.L. c. 265, § 56 (X)
E95 Forfeiture, G.L. c. 94C, § 47 (F)
E99 Other Administrative Action (X)
Z01 Medical Malpractice - Tribunal only, G.L. c. 231, § 60B (F)
Z02 Appeal Bond Denial (X)

SO Sex Offender Review

- E12 SDP Commitment, G.L. c. 123A, § 12 (X)
E14 SDP Petition, G.L. c. 123A, § 9(b) (X)

RC Restricted Civil Actions

- E19 Sex Offender Registry, G.L. c. 6, § 178M (X)
E27 Minor Seeking Consent, G.L. c.112, § 12S(X)

TRANSFER YOUR SELECTION TO THE FACE SHEET

EXAMPLE:


CODE NO.	TYPE OF ACTION (specify)	TRACK	HAS A JURY CLAIM BEEN MADE?
B03	Motor Vehicle Negligence-Personal Injury	<u>F</u>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

STATEMENT OF DAMAGES REQUIRED BY G.L. c. 212, § 3A

DUTY OF THE PLAINTIFF — On the face of the Civil Action Cover Sheet (or on attached additional sheets, if necessary), the plaintiff shall state the facts on which the plaintiff relies to determine money damages. A copy of the completed Civil Action Cover Sheet, including the statement concerning damages, shall be served with the complaint. **A clerk-magistrate shall not accept for filing a complaint, except as otherwise provided by law, unless it is accompanied by such a statement signed by the attorney or self-represented litigant.**

DUTY OF THE DEFENDANT — If the defendant believes that the statement of damages filed by the plaintiff is inadequate, the defendant may file with the defendant's answer a statement specifying the potential damages which may result if the plaintiff prevails.

**A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT.
IF THIS COVER SHEET IS NOT FILLED OUT THOROUGHLY AND
ACCURATELY, THE CASE MAY BE DISMISSED.**

CIVIL TRACKING ORDER (STANDING ORDER 1- 88)	DOCKET NUMBER 2381CV00868	Trial Court of Massachusetts The Superior Court 
CASE NAME: Roberta Biscan, Parent Of Connor Biscan et al vs. Town Of Wilmington et al		Michael A. Sullivan, Clerk of Court Middlesex County
TO: File Copy		COURT NAME & ADDRESS Middlesex County Superior Court - Woburn 200 Trade Center Woburn, MA 01801

TRACKING ORDER - A - Average

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION

DEADLINE

	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court		06/26/2023	
Response to the complaint filed (also see MRCP 12)		07/24/2023	
All motions under MRCP 12, 19, and 20	07/23/2023	08/22/2023	09/21/2023
All motions under MRCP 15	05/20/2024	06/17/2024	06/17/2024
All discovery requests and depositions served and non-expert depositions completed	03/14/2025		
All motions under MRCP 56	04/14/2025	05/13/2025	
Final pre-trial conference held and/or firm trial date set			09/10/2025
Case shall be resolved and judgment shall issue by			03/24/2026

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time.
Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.
This case is assigned to

DATE ISSUED 03/27/2023	ASSISTANT CLERK	PHONE
----------------------------------	-----------------	-------

3

ACCEPTANCE OF SERVICE OF PROCESS

Service of process and of the complaint by which the action was commenced is accepted
on behalf of the following defendants.

1. Jessica Talbot

Dated: 5/23/23

Respectfully submitted,

RECEIVED

5/24/2023

The Defendant,
Jessica Talbot,
By Her Attorney,



Christopher P. Cifra (BBO # 643835)
CIFRA DOUGAN, LLP
One Mountain Road
Burlington, MA 01803
(617) 939-9529
ccifra@cgdllaw.com

SR

4

ACCEPTANCE OF SERVICE OF PROCESS

Service of process and of the complaint by which the action was commenced is accepted
on behalf of the following defendants.

1. TOWN OF WILMINGTON,
2. ALICE BROWN-LEGRAND
3. PAUL RUGGIERO,
4. CHARLOTTE KING
5. GLENN BRAND

RECEIVED
5/24/23

~~Plaintiffs,~~ *Defendants*
By their attorney

/s/ Adam Simms
Adam Simms, Esq., BBO# 632617
PIERCE DAVIS PERRITANO
10 Post Office Square, Suite 1100N
Boston, Massachusetts 02109
(617) 350-0950
asimms@piercedavis.com

Dated: *May 19, 2023*

Commonwealth of Massachusetts

MIDDLESEX, SS.

TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT
CIVIL DOCKET NO. 2381CV00868

Roberta Biscari, Parent
of Connor Biscari et al PLAINTIFF(S),

v.

Town of Wilmington, DEFENDANT(S)
et al



RECEIVED
5/24/2023

SUMMONS


THIS SUMMONS IS DIRECTED TO Victoria Fitzgerald . (Defendant's name)

You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Middlesex Court. **YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.**

1. **You must respond to this lawsuit in writing within 20 days.** If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. **If you need more time to respond, you may request an extension of time in writing from the Court.**
2. **How to Respond.** To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:
 - a. Filing your **signed original** response with the Clerk's Office for Civil Business, Middlesex Court, 200 Trade Center, Woburn (address), by mail or in person, **AND**
 - b. Delivering or mailing a **copy** of your response to the Plaintiff's Attorney/Plaintiff at the following address: 60 Beacon St Suite 1020 Boston, MA 02108
3. **What to include in your response.** An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as **counterclaims**) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must **specifically** request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under **Mass. R. Civ. P. 12**. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at www.mass.gov/courts/case-legal-res/rules of court.

4. **Legal Assistance.** You may wish to get legal help from a lawyer. If you cannot get legal help, some basic information for people who represent themselves is available at www.mass.gov/courts/selfhelp.
5. **Required information on all filings:** The "civil docket number" appearing at the top of this notice is the case number assigned to this case and must appear on the front of your Answer or Motion to Dismiss. You should refer to yourself as the "Defendant."

Witness Hon. Heidi Brieger, Chief Justice on 4/19, 2023.



Michael A. Sullivan
Clerk-Magistrate

Note: The number assigned to the Complaint by the Clerk-Magistrate at the beginning of the lawsuit should be indicated on the summons before it is served on the Defendant.

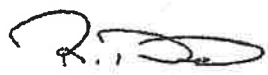
PROOF OF SERVICE OF PROCESS



Middlesex Sheriff's Office • 40 Brick Kiln Rd. Chelmsford, MA 01824 • 617-547-1171
Middlesex, ss.

May 4, 2023

I hereby certify and return that on 5/2/2023 at 10:10 AM I served a true and attested copy of the SUMMONS, COMPLAINT, CIVIL ACTION COVER SHEET, TRACKING ORDER in this action in the following manner: To wit, by leaving at the last and usual place of abode of VICTORIA FITZGERALD, 6 CHANDLER Road WILMINGTON, MA 01887 . Fees: Attest (\$5.00) Basic Service Fee (\$20.00) Postage and Handling (\$3.00) Travel (\$3.20) Conveyance (\$3.90) Total: \$35.10



Deputy Sheriff Robb Delleo

_____, 20____

2381CV00868

Commonwealth of Massachusetts

MIDDLESEX, SS.

TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT
CIVIL DOCKET NO. 2381CV00868

Robert Biscan, Parent of, PLAINTIFF(S),
Connor Biscan et al

v.

Town of Wilmington, DEFENDANT(S)
et al

SUMMONS



RECEIVED
5/24/2023

THIS SUMMONS IS DIRECTED TO Kimberly Cummings (Defendant's name)

You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Middlesex Court. **YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.**

1. **You must respond to this lawsuit in writing within 20 days.** If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. **If you need more time to respond, you may request an extension of time in writing from the Court.**
2. **How to Respond.** To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:
 - a. Filing your **signed original** response with the Clerk's Office for Civil Business, Middlesex Court, 200 Trade Center (address), by mail or in person, **AND**
 - b. Delivering or mailing a copy of your response to the Plaintiff's Attorney/Plaintiff at the following address: 6 Beacon St Suite 1020 Boston, MA 02108
3. **What to include in your response.** An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as **counterclaims**) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must **specifically** request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under **Mass. R. Civ. P. 12**. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at www.mass.gov/courts/case-legal-res/rules of court.

4. **Legal Assistance.** You may wish to get legal help from a lawyer. If you cannot get legal help, some basic information for people who represent themselves is available at www.mass.gov/courts/selfhelp.
5. **Required information on all filings:** The "civil docket number" appearing at the top of this notice is the case number assigned to this case and must appear on the front of your Answer or Motion to Dismiss. You should refer to yourself as the "Defendant."

Witness Hon. Heidi Brieger, Chief Justice on 4/19, 2023.



Michael A. Sullivan
Clerk-Magistrate

Note: The number assigned to the Complaint by the Clerk-Magistrate at the beginning of the lawsuit should be indicated on the summons before it is served on the Defendant.

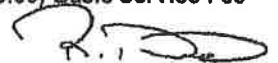
PROOF OF SERVICE OF PROCESS



Middlesex Sheriff's Office • 40 Brick Kiln Rd. Chelmsford, MA 01824 • 617-547-1171
Middlesex, ss.

May 4, 2023

I hereby certify and return that on 5/2/2023 at 10:20 AM I served a true and attested copy of the SUMMONS, COMPLAINT, CIVIL ACTION COVER SHEET, TRACKING ORDER in this action in the following manner: To wit, by leaving at the last and usual place of abode of KIMBERLY CUMMINGS, 24 MILLER Road WILMINGTON, MA 01887 . Fees: Attest (\$5.00) Basic Service Fee (\$20.00) Postage and Handling (\$3.00) Travel (\$3.20) Conveyance (\$3.90) Total: \$35.10



Robb Delleo

Deputy Sheriff

_____, 20____

365267

7

COMMONWEALTH OF MASSACHUSETTS

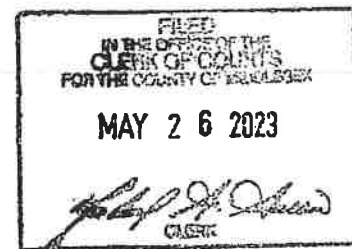
MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT
C.A. NO. 2381-CV-00868

ROBERTA BISCAN et al.,)
 Plaintiffs,)
)
VS.)
)
TOWN OF WILMINGTON et al.,)
 Defendants.)

NOTICE OF FILING OF NOTICE OF REMOVAL

Please take notice that a Notice of Removal, a true and correct copy of which is attached hereto as Exhibit 1, was filed by the defendants Town of Wilmington, Alice Brown-Legrand, Paul Ruggiero, Charlotte King, and Glenn Brand in the office of the Clerk of the United States District Court for the District of Massachusetts on May 25, 2023, relative to the removal and transfer of the above-captioned action. The Certified Notice of Removal from the Clerk of the United States District Court for the District of Massachusetts is attached hereto as Exhibit 2.



Date Filed: 5/26/2023 10:14 AM
Superior Court - Middlesex
Docket Number 2381CV00868

Respectfully submitted,

The Defendants,

TOWN OF WILMINGTON, ALICE BROWN-
LEGRAND, PAUL RUGGIERO, CHARLOTTE
KING, AND GLENN BRAND

By their attorneys

PIERCE, DAVIS & PERRITANO, LLP

/s/ Justin L. Amos

Adam Simms, BBO #632617
Justin L. Amos, BBO #697232
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10 Post Office Square, Suite 1100N
Boston, MA 02109
(617) 350-0950
asimms@piercedavis.com
jamos@piercedavis.com
choward@piercedavis.com

Dated: May 26, 2023

CERTIFICATE OF SERVICE

I, Justin L. Amos, certify that on May 26, 2023, a true copy of the aforementioned document was served via electronic mail on all counsel of record.

/s/ Justin L. Amos

Justin L. Amos, Esq.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERTA BISCAN et al.,
Plaintiffs,

VS.

TOWN OF WILMINGTON et al.,
Defendants.

C.A. NO. 1:23-cv-11170

NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
28 U.S.C. § 1441(a)

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS:

Petitioners, Town of Wilmington (the "Town"), Alice Brown-Legrand, Paul Ruggiero, Charlotte King, and Glenn Brand (the "Town officials") respectfully petition this Honorable Court, pursuant to 28 U.S.C. § 1441(a), for removal of the above-entitled action to the United States District Court for the District of Massachusetts, Civil Section, from the Superior Court of the Commonwealth of Massachusetts in and for the County of Middlesex, and for its Notice of Removal states as follows:

1. The Town officials are named as defendants by the plaintiffs, Roberta Biscan, (individually and as parent of C.B.),¹ Jennifer and Aaron Baptista (individually and as parents of N.B.), Sabrina Veloza (individually and as parent of R.C. 1), Kathryn Marsh and Mark Chmiel (individually and as parents of R.C. 2), Colleen and Joseph Lavorato (individually and as parents of C.L.), Nicolette Doucette and Rosario Lofaro (individually and as parents of A.F.), Jeanette and Richard Luti (individually and as parents of J.L.), Cassandra Nichols (individually and as parent of G.S.), Erika Mellstrom and Clifton Clark, III (individually and as parents of C.C.), and Sabrina

¹ The Town officials use a pseudonym in place of the named student plaintiffs due to their ages and/or incapacitations. The Town officials have also redacted the exhibits attached hereto.

and Allen Fucile (individually and as parents of R.F.) (collectively the “plaintiffs”) in a civil action filed in the Superior Court of the Commonwealth of Massachusetts in and for the County of Middlesex, entitled Roberta Biscan et al. vs. Town of Wilmington, et al., Middlesex Superior Court, C.A. No. 2381-CV-00868. By agreement, on May 19, 2023, undersigned counsel accepted service of the Summons and Complaint on behalf of the Town and Town officials. Copies of the Complaint and the undersigned’s Acceptance of Service are attached hereto as Exhibits “1” and “2,” respectively. The Town officials have not yet answered or otherwise responded to said Summons and Complaint. There are no pending motions.

2. This is a suit of a wholly civil nature brought in a Massachusetts state court. The action is pending in the Superior Court of the Commonwealth of Massachusetts in and for the County of Middlesex and, accordingly, under 28 U.S.C. § 101 and § 1441(a), the United States District Court for the District of Massachusetts is the proper forum for removal.

3. In Count II of their Complaint, the plaintiffs allege that the Town violated 42 U.S.C. § 1983. In Count III of their Complaint, the plaintiffs allege that the Town violated 749 U.S.C. § 504. In Count VI, the plaintiffs alleged that the Town officials violated 42 U.S.C. § 1983.

4. Additionally, Counts VII, X, XI, and XIV each allege claims arising under the laws of the United States against defendants Kimberly Cummings, Victoria Fitzgerald, Jessica Talbot, and Kelly Foggerty.

5. Because Counts II, III, VI, VII, X, XI, and XIV of this civil action arise under the Constitution and laws of the United States, the United States District Court has original jurisdiction under 28 U.S.C. § 1331.

6. This Court has supplemental jurisdiction over Counts I, IV, V, VIII, IX, XII-XVII of this civil action under 28 U.S.C. § 1367(a).

7. The Town officials are filing this Notice of Removal within thirty days of service of the Summons and Complaint, within thirty days of the date this action became removable, and within the time for filing this petition. See 28 U.S.C. § 1446(b)(1).

8. The Town officials will file a Notice of Filing of this Notice of Removal and a copy of this Notice of Removal with the Clerk of the Superior Court of Massachusetts, County of Middlesex.

9. Pursuant to Local Rule 81.1(a), the Town officials shall request of the Clerk of the Superior Court of Massachusetts, County of Middlesex, certified or attested copies of all records and proceedings in the state court and certified or attested copies of all docket entries therein and shall file the same with this Court within thirty days after the filing of this Notice of Removal.

10. All defendants who have been properly joined and served in this matter join in or consent to the removal of the action. 28 U.S.C. § 1446(b)(2)(A).

WHEREFORE, the petitioners, Town of Wilmington, Alice Brown-Legrand, Paul Ruggiero, Charlotte King, and Glenn Brand, pray that the above-entitled action now pending in the Superior Court of the Commonwealth of Massachusetts in and for Norfolk County be removed from that Court to this United States District Court.

Respectfully submitted,

The Defendants,

TOWN OF WILMINGTON, ALICE BROWN-
LEGRAND, PAUL RUGGIERO, CHARLOTTE
KING, AND GLENN BRAND,

By their Attorneys,

PIERCE DAVIS & PERRITANO LLP

/s/ Justin L. Amos

Adam Simms, BBO #632617
Justin L. Amos, BBO #697232
Collen M. Howard, BBO #710250
10 Post Office Square, Suite 1100N
Boston, MA 02109
(617) 350-0950
asimms@piercedavis.com
jamos@piercedavis.com
choward@piercedavis.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on May 25, 2023.

/s/ Justin L. Amos

Justin L. Amos, Esq.

EXHIBIT 1

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

**MIDDLESEX SUPERIOR COURT
CIVIL ACTION NO. 2381CV00868**

**ROBERTA BISCAN, INDIVIDUALLY
AND AS PARENT OF [REDACTED] C.B.**

**JENNIFER BAPTISTA AND AARON BAPTISTA, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] N.B.**

**SABRINA VELOZA, INDIVIDUALLY
AND AS PARENT OF [REDACTED] R.C. 1**

**KATHRYN MARSH AND MARK CHMIEL, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] R.C. 2**

**COLLEEN LAVORATO AND JOSEPH LAVORATO, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] C.L.**

**NICOLETTE DOUCETTE AND ROSARIO LOFARO, INDIVIDUALLY
AND AS PARENTS [REDACTED] A.F.**

**JEANNETTE LUTI AND RICHARD LUTI, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] J.L.**

**CASSANDRA NICHOLS, INDIVIDUALLY
AND AS PARENT OF [REDACTED] G.S.,**

**ERIKA MELLSTROM and CLIFTON CLARK, III, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] C.C.**

**SABRINA FUCILE and ALLEN FUCILE, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] R.F.
Plaintiffs**

vs.

**TOWN OF WILMINGTON,
KIMBERLY CUMMINGS, VICTORIA FITZGERALD, JESSICA TALBOT,
KELLY FOGGERTY, ALICE BROWN-LEGRAND, PAUL RUGGIERO,
CHARLOTTE KING AND GLENN BRAND
Defendants**

COMPLAINT AND DEMAND FOR JURY

INTRODUCTION

1. This action, against the TOWN OF WILMINGTON, KIMBERLY CUMMINGS, VICTORIA FITZGERALD, JESSICA TALBOT, KELLY FOGGERTY, ALICE BROWN-LEGRAND, PAUL RUGGIERO, CHARLOTTE KING, and GLENN BRAND, arises out of multiple incidents in which each of the plaintiffs, all of whom are severely disabled students, were physically and mentally abused while attending school in the Wilmington public schools. Plaintiffs seek relief through various federal, constitutional, and common law tort claims.

PARTIES

2. Plaintiff, [REDACTED] C.B. [REDACTED], a minor, by ROBERTA BISCAN, his mother and next friend (hereinafter referred to as "[REDACTED] C.B. [REDACTED]"), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
3. Plaintiff, ROBERTA BISCAN, individually, brings this lawsuit as parent of her incapacitated son, [REDACTED] C.B. [REDACTED] pursuant to Massachusetts General Laws Chapter 231, Section 85X. She is an individual residing in Wilmington, Middlesex County, Massachusetts.
4. Plaintiff, [REDACTED] N.B. [REDACTED], a minor, by JENNIFER BAPTISTA, his mother and next friend (hereinafter referred to as "[REDACTED] N.B. [REDACTED]"), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
5. Plaintiffs, JENNIFER BAPTISTA and AARON BAPTISTA, individually, bring this lawsuit as parents of their incapacitated son, [REDACTED] N.B. [REDACTED] pursuant to Massachusetts General

Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.

6. Plaintiff, [REDACTED] R.C. 1, a minor, by SABRINA VELOZA, his mother and next friend (hereinafter referred to as "[REDACTED] R.C. 1"), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
7. Plaintiff, SABRINA VELOZA, individually, brings this lawsuit as parent of her incapacitated son, [REDACTED] R.C. 1, pursuant to Massachusetts General Laws Chapter 231, Section 85X. She is an individual residing in Wilmington, Middlesex County, Massachusetts.
8. Plaintiff [REDACTED] R.C. 2, a minor, by KATHRYN MARSH, his mother and next friend (hereinafter referred to as "[REDACTED] R.C. 2"), is a resident of Shirley, Middlesex County, Commonwealth of Massachusetts.
9. Plaintiffs, KATHRYN MARSH, an individual residing in Shirley, Middlesex County, Massachusetts and MARK CHMIEL, an individual residing in Ayer, Middlesex County, Massachusetts, bring this lawsuit as parents of their incapacitated son, [REDACTED] R.C. 2 pursuant to Massachusetts General Laws Chapter 231, Section 85X.
10. Plaintiff, [REDACTED] C.L., a minor, by COLLEEN LAVORATO, her mother and next friend (hereinafter referred to as "[REDACTED] C.L."), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
11. Plaintiffs, COLLEEN LAVORATO and JOSEPH LAVORATO, individually, bring this lawsuit as parents of their incapacitated daughter, [REDACTED] C.L., pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.

12. Plaintiff, [REDACTED] A.F. [REDACTED], a minor, by NICOLETTE DOUCETTE, his mother and next friend (hereinafter referred to as "[REDACTED] A.F. [REDACTED]"), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
13. Plaintiffs, NICOLETTE DOUCETTE and ROSARIO LOFARO, individually, bring this lawsuit as parents of their incapacitated son, [REDACTED] A.F. [REDACTED] pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.
14. Plaintiff, [REDACTED] J.L. [REDACTED], an incapacitated person, by his legal guardian JEANNETTE LUTI, is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
15. Plaintiff, JEANNETTE LUTI and RICHARD LUTI, individually, bring this lawsuit as parents of their incapacitated son, [REDACTED] J.L. [REDACTED] pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.
16. Plaintiff, [REDACTED] G.S. [REDACTED], a minor, by CASSANDRA NICHOLS, his mother and next friend (hereinafter referred to as "[REDACTED] G.S. [REDACTED]"), is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
17. Plaintiff, CASSANDRA NICHOLS, individually, brings this lawsuit as parent of her incapacitated son, [REDACTED] G.S. [REDACTED] pursuant to Massachusetts General Laws Chapter 231, Section 85X. She is an individual residing in Wilmington, Middlesex County, Massachusetts.
18. Plaintiff, [REDACTED] C.C. [REDACTED], a minor, by his mother and next friend ERIKA MELLSTROM, is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.

19. Plaintiffs, ERIKA MELLSTROM and CLIFTON CLARK, III, individually, bring this lawsuit as parents of their incapacitated son, [REDACTED] C.C., pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.
20. Plaintiff, [REDACTED] R.F., a minor, by his mother and next friend, SABRINA FUCILE, is a resident of Wilmington, Middlesex County, Commonwealth of Massachusetts.
21. Plaintiff, SABRINA FUCILE and ALLEN FUCILE, individually, bring this lawsuit as parents of their incapacitated daughter, [REDACTED] R.F., pursuant to Massachusetts General Laws Chapter 231, Section 85X. They are individuals residing in Wilmington, Middlesex County, Massachusetts.
22. Defendant, TOWN OF WILMINGTON, is a body politic and corporate duly organized under the laws of the Commonwealth of Massachusetts, with a principal place of business of 121 Glen Road, Wilmington, Middlesex County, Commonwealth of Massachusetts.
23. The Town of Wilmington is responsible for the administration of the Wildwood School which is a public elementary school within and for the Town of Wilmington
24. Defendant KIMBERLY CUMMINGS (hereinafter "Cummings") is an individual residing at 24 Miller Road, Wilmington, Middlesex County, Commonwealth of Massachusetts.
25. Cummings was employed as a teacher for the Town of Wilmington from 2003 through 2021. Cummings was assigned to classroom 7 at the Wildwood School for seventeen years and Shawsheen School for one year in 2005. Her employment ended in May 2021 after DCF began its investigation.

26. Defendant, VICTORIA FITZGERALD (hereinafter "Fitzgerald"), is an individual residing at 6 Chandler Road, Wilmington, Middlesex County, Commonwealth of Massachusetts.
27. Defendant Fitzgerald was employed as an assistant teacher at the Wildwood School from February 2017 through May 2021. Her employment ended after DCF began its investigation. Fitzgerald worked with Cummings in Classroom 7 at Wildwood School throughout her employment.
28. Defendant KELLY FOGGERTY (hereinafter "Foggerty") is an individual with an address unknown to the Plaintiffs.
29. Foggerty was employed as a teacher for the Town of Wilmington at the Wildwood School for all times relevant hereto.
30. Defendant, JESSICA TALBOT (hereinafter "Talbot"), is an individual with an address unknown to the Plaintiffs.
31. Talbot was employed as an assistant teacher for the Town of Wilmington at the Wildwood School for all times relevant hereto. Talbot worked with Foggerty at Wildwood School for all times relevant hereto.
32. Defendant, ALICE BROWN-LEGRAND (hereinafter "Legrand"), is an individual residing at 65 Sandalwood Circle, Tewksbury, Middlesex County, Massachusetts.
33. Legrand was employed as the Director of Special Education for the Town of Wilmington, at all times relevant hereto.
34. Defendant, CHARLOTTE KING (hereinafter "King"), is an individual residing at an address unknown to the Plaintiffs.

35. KING was employed as the principal at Wildwood School for the Town of Wilmington from 2014 through 2021. Her employment ended after DCF began its investigation.
36. Defendant, GLENN BRAND (hereinafter "Brand"), is an individual residing at an address unknown to the Plaintiffs.
37. Brand was the superintendent for the public schools in and for the Town of Wilmington from in or about 2018 through the current date.
38. Defendant, PAUL RUGGIERO (hereinafter "Ruggiero"), is an individual residing at 47 Forest Street, Wilmington, Middlesex County, Massachusetts.
39. Ruggiero was the interim superintendent for the public schools in and for the Town of Wilmington at times relevant hereto.

FACTS COMMON TO ALL CLAIMS

40. The powers, duties and liabilities of Wildwood School and Shawsheen School are vested in and exercised by the Town of Wilmington.
41. At all times relevant to this action, Defendant, Town of Wilmington, employed all school staff, faculty, counselors, principals and superintendents at Wildwood School and Shawsheen School.
42. At all times relevant to this action, Wildwood School and Shawsheen School employees were acting under the color of law, under the color of their authority as Town of Wilmington employees, and within the scope of their employment with the Town of Wilmington.
43. At all times relevant to this action, Cummings, Fitzgerald, Foggerty, Talbot and Legrand were under the disciplinary authority of King, Brand, Ruggiero and the Town of Wilmington.

44. At all times relevant to this action, King was under the disciplinary authority of Brand, Ruggiero and the Town of Wilmington.
45. At all times relevant to this action, Brand and Ruggiero were under the disciplinary authority of the Town of Wilmington.
46. In 2005, Cummings physically abused and neglected **J.L.** resulting in broken blood vessels in **J.L.** eyes. Cummings used poor judgment in her application of ABA teaching, was not truthful with the student's parents, and refused to allow the student to go to the school nurse to address the broken blood vessels.
47. The Town of Wilmington's school district failed to properly address this complaint with the student's parents for over two months.
48. Between 2008 and 2013, Cummings was observed by other Wildwood School staff members to have inappropriate and potentially harmful physical interactions with the pre-kindergarten and kindergarten students in her classroom, including using her foot to move non-verbal students across the floor, physically handling students in a rough manner and pulling students up by the underarms.
49. Staff members reported these incidents to school administrators.
50. In 2014 Cummings was suspended for five days without pay for falsifying data to the then principal. She was suspended for inefficiency, incompetency, conduct unbecoming a teacher, insubordination and other just causes.
51. From 2016 through 2021, Cummings was physically and verbally abusive to **N.B.** **R.C.1**, **R.C.2** **C.L.** **A.F.** **C.C.** and **R.F.** These actions include:
- a. used harsh language and bullied students in her classroom;
 - b. screamed at the students;

- c. pulled students by the back of their sweatshirts;
- d. emptied students' water bottles to prevent them from drinking and urinating in the classroom;
- e. ate the students' snacks;
- f. withheld snacks from the students;
- g. grabbed students by their wrist and dragged them to "time-out";
- h. grabbed students by their wrist and dragged them to the nurse's office;
- i. used forceful physical prompts;
- j. forcefully put students onto their chairs;
- k. ignored children when they cried in distress.

52. In 2020, Cummings was suspended without pay after she pushed a pre-kindergarten student's elbow off the table in a way that the child could have fallen, denied the child water and did not follow that child's individualized education plan (hereinafter "IEP"). Cummings was suspended for incompetency, conduct unbecoming a teacher and other just cause.

53. Although Cummings attended safety training, she did not complete certain parts of that training.

54. Fitzgerald was present in classroom 7 from 2017 through 2021 and observed Cummings commit the above stated abuses. Fitzgerald failed to take any action to stop the abuse. Fitzgerald failed to report any of the above stated abuse to the Department of Children and Families (hereinafter "DCF") as is required by law.

55. The school district failed and refused to report any of the above abuses to DCF as is required by law.

56. School staff members reported the abuse committed by Cummings to the school district, including King, Legrand, Ruggiero and Brand.
57. Legrand, King, Ruggiero and Brand were informed by various staff members and/or parents that Cummings had committed the above stated abuse but Legrand, King, Ruggiero and Brand failed to report the abuse to DCF.
58. Legrand, King, Ruggiero and Brand failed to impose appropriate disciplinary action against Cummings including requiring her to obtain retraining to correct her abusive behavior.

R.C. 1

59. In March 2021, **R.C. 1** was a three-year-old boy with autistic spectrum disorder including severe language impairment.
60. **R.C. 1** attended Wildwood School in a preschool class from September 2020 through March 2021. **R.C. 1** was placed in classroom 7 where Cummings was the primary teacher and Fitzgerald was the assistant teacher.
61. Shortly after entering classroom 7, **R.C. 1** began kicking, refusing to go into classroom 7 and throwing tantrums in the hallway. He regressed with his disabilities and was not happy.
62. **R.C. 1** came home from school with bruising thumbprint in size and shaped like fingerprints on his thighs which were consistent with someone holding him down by the legs. He also arrived home with bruising from his waist to his feet. He also had bumps on his head. On one occasion he came home in girls pants.
63. **R.C. 1**'s parents reported their concerns regarding Cummings' abusive behavior to the school administration, specifically including King.

64. As a result of Cummings' behavior, **R.C.1** regressed in many of his disability related issues.
65. After **R.C.1**'s parents removed **R.C.1** from Cummings' classroom, **R.C.1**'s regressions ceased and he began making significant improvements.
66. **R.C.1** has suffered severe physical and emotional distress, including feelings of anxiety.
67. Sabrina Veloza has suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

N.B.

68. In February 2021, **N.B.** was a six-year-old boy with autistic spectrum disorder including severe language impairment.
69. **N.B.** attended Wildwood School in a preschool class from January 2018 through September 2020. During this time, he loved school. He did well in school and he made steady positive progress.
70. In September 2020, **N.B.** was moved to classroom 7 at Wildwood School. Shortly after being transferred to classroom 7, **N.B.** began to resist going to school. He regressed with his disabilities and was not happy.
71. In February 2021, Cummings injured **N.B.**'s wrists while dragging him. Following this incident, **N.B.**'s pediatrician filed a complaint with DCF.
72. On May 4, 2021, Cummings again physically injured **N.B.** **N.B.**'s pediatrician noted three ½ inch linear patterned yellow dotted bruises on **N.B.**'s lower back.
73. **N.B.** would often say "no school, teacher hurt me". **N.B.** appeared traumatized when his parents brought him to classroom 7 and was reluctant to enter the classroom. **N.B.** would crumble into a ball when his parents mentioned the word "teacher".

74. **N.B.**'s parents consistently reported their concerns regarding Cummings' abusive behavior to the school administration, specifically including King and Brand.
75. As a result of Cummings' behavior, **N.B.** often came home from school hungry, had increased staring spells, had increased emotional lability, had agitated behaviors, and had sleep difficulties and nightmares.
76. After Cummings was removed from classroom 7, **N.B.**'s unresponsive staring stopped, his regressions ceased and he began making significant improvements.
77. **N.B.** continues to undergo trauma therapy to cope with Cummings' abusive behavior. **N.B.** has suffered severe physical and emotional distress, including feelings of anxiety.
78. Jennifer Baptista and Aaron Baptista have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

R.C. 2

79. In April 2021, **R.C. 2** was a five-year-old boy with autistic spectrum disorder including severe language impairment.
80. **R.C. 2** has attended Wilmington Schools since he was three years old. Prior to March 2021, he generally enjoyed school and was making progress with his disabilities and with general learning.
81. In or about March 29, 2021, **R.C. 2** was assigned to classroom 7 at Wildwood School. Within the first week of being in classroom 7, **R.C. 2** came home stating that he did not like school and did not want to go back.
82. Cummings regularly pulled **R.C. 2** by the wrist and physically placed him in "time-out". On or about April 2, 2021, Cummings grabbed **R.C. 2** by the wrist and left bruises consistent with finger marks on top of **R.C. 2**'s wrists. On or about April 30, 2021,

Cummings grabbed R.C. 2 by the wrist and again left bruises consistent with finger marks on top of R.C. 2's wrists.

83. Cummings' actions caused R.C. 2 physical pain. R.C. 2 demonstrated how Cummings hurt his arm to the school adjustment counselor.
84. After being placed in classroom 7, R.C. 2 became more physically aggressive.
85. On or about May 3, 2021, R.C. 2's mother reported these incidents to the Wilmington Superintendent's Office.
86. R.C. 2 has suffered severe physical and emotional distress, including feelings of anxiety.
87. Kathryn Marsh and Mark Chmiel have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

A.F.

88. In September 2016, A.F. was a five-year-old boy with an autistic spectrum disorder including severe language impairment.
89. A.F. attended Wilmington Schools since 2015. He generally enjoyed school and was making progress with his disabilities and with general learning.
90. In or about September 2016, A.F. was assigned to classroom 7 at Wildwood School. Within a couple of months, A.F. became physically aggressive at home and refused to go to school.
91. Cummings failed and refused to follow A.F. IEP.
92. A.F. was sent to school every day with multiple outfits and pull-ups due to his toileting issues. Cummings failed to put a pull-up on A.F. causing him to soil his clothing. Cummings would make him wear girl's pants despite the fact that he had clean pants of his own to wear.

93. [A.F.] parents removed [R.F.] from classroom 7 in the Summer of 2017. After he was removed, [A.F.] made steady progress in school.

94. [A.F.] has suffered severe physical and emotional distress, including feelings of anxiety.

95. Nicolette Doucette and Rosario Lofaro have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

[C.L.]

96. In October 2014, [C.L.] was a three-year-old girl with autistic spectrum disorder including severe language impairment.

97. [C.L.] began pre-school in September 2014. At that time, [C.L.] was in a classroom where Foggerty was the teacher.

98. Foggerty was verbally and physically abusive to [C.L.]

99. [C.L.] came home from school with marks and bruises on her body and face. On October 23, 2014 she came home with a bump on her forehead. On October 28, 2014, she came home with swollen lips. On November 13, 2014, she came home with cuts to her eye socket. On November 17, 2014, she came home with scratches on her neck. [C.L.]'s anxiety increase dramatically during this time.

100. In or about 2016, [C.L.] began kindergarten in classroom 7 at Wildwood School.

101. Cummings was verbally and physically abusive to [C.L.] When [C.L.] became emotional or upset and began to cry, Cummings yelled at her to knock it off. Cummings used harsh language and bullied [C.L.]

102. At times, Cummings refused to give [C.L.] her lunch. [C.L.] would often come home from school hungry despite the fact that [C.L.] went to school with sufficient food.

103. [C.L.] mother made multiple complaints to King, Legrand, Ruggiero and the School Committee regarding Foggerty and Cummings' abusive behavior. [C.L.] mother requested that King, Legrand and Ruggiero file complaints with DCF, but they refused. [C.L.] mother filed her own complaint with DCF on March 30, 2018.
104. [C.L.] parents removed [C.L.] from classroom 7 and the Wildwood School out of concern for her safety.
105. [C.L.] parents had to hire an attorney to force the Town Wilmington to provide [C.L.] with an out-of-district placement.
106. During this period of time, [C.L.] did not have a school to go to. It was an extremely stressful and emotional time for [C.L.] and her parents.
107. Once in the new out-of-district school, [C.L.] started to receive incredible services and made progress in disability related issues and general learning.
108. As a result of Foggerty and Cummings' actions, [C.L.] suffers from PTSD, panic attacks and anxiety. [C.L.] has suffered severe physical and emotional distress, including feelings of anxiety.
109. Colleen Lavorato and Joseph Lavorato have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.
- [J.L.]
110. In August 2005, [J.L.] was an eight-year-old boy with autistic spectrum disorder including severe language impairment.
111. In August 2005, [J.L.] was in a classroom at Shawsheen School and Cummings was his primary teacher.

112. In August 2005 Cummings put **J.L.** in a chair, pushed him tight up against a table and sat directly behind him. Cummings would not let **J.L.** move for almost an hour. Cummings grabbed **J.L.** under the arms several times, forcing him to sit up. During this time, **J.L.** was screaming. As a result of this incident, **J.L.** developed broken blood vessels in his eyes. An assistant teacher asked Cummings to send **J.L.** to the school nurse to be seen for his eyes, but Cummings refused to allow this to happen. Cummings was not truthful with **J.L.** parents regarding the broken blood vessels.
113. The Town of Wilmington's school district failed to properly address this complaint with **J.L.** parents for over two months.
114. **J.L.** parents removed **J.L.** from Cummings' class.
115. **J.L.** has suffered severe physical and emotional distress, including feelings of anxiety.
116. Jeanette Luti and Richard Luti have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

C.B

117. In May 2010, **C.B** was a five-year-old boy with autistic spectrum disorder including severe language impairment.
118. **C.B** attended Wildwood School's pre-school program from September 2007 through June 2009. During this time period, **C.B** enjoyed school and made great strides in his vocabulary.
119. In September 2009, **C.B** started kindergarten in classroom 7. After the first week, **C.B** came home from school crying. He did not want to go back to school. He kept saying that his teacher was mean.

120. Cummings would grab [C.B.] in an aggressive manner. [C.B.] came home from school on multiple occasions with bruises and scratches on his face and back. He also had bruises on his side and legs.
121. On one occasion, [C.B.] came home with a large bruise in the area of his tailbone. [C.B.] told his mother that Cummings had pushed him.
122. [C.B.]'s mother reported the abuse to the schools administration, but no action was taken.
123. In February 2010, [C.B.]'s parents demanded that the school transfer [C.B.] away from Cummings out of concern for his safety. In March 2010, [C.B.] was moved to a different classroom.
124. [C.B.] has suffered severe physical and emotional distress, including feelings of anxiety.
125. Roberta Biscan has suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

[G.S.]

126. In March 2020, [G.S.] was a three-year-old boy with autistic spectrum disorder including severe language impairment.
127. At all times relevant hereto, [G.S.] was in a classroom where Foggerty was the teacher and Talbot was an assistant teacher.
128. In 2019 and 2020, Talbot physically abused [G.S.] Talbot squeezed [G.S.]'s arms and neck hard enough to cause pain to [G.S.] Talbot hurt [G.S.] when she rubbed [G.S.] chest (similar to a sternum rub).
129. [G.S.] mother reported her concerns to King but King failed to report the matter to DCF or to impose any disciplinary action on Talbot.

130. **G.S.** has suffered severe physical and emotional distress, including feelings of anxiety.

131. Cassandra Nichols has suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

C.C.

132. In October 2018, **C.C.** was a three-year-old boy with autistic spectrum disorder including severe language impairment.

133. **C.C.** attended Wildwood School's pre-school program from October 2018 through September 2019. During this time period, **C.C.** enjoyed school.

134. In September 2019, **C.C.** was moved to classroom 7. **C.C.** was physically and emotionally abused by Cummings.

135. Cummings failed to prompt **C.C.** to get up and throw away his lunch. Cummings left **C.C.** sitting at a table for over thirty minutes despite the fact that **C.C.** was obviously upset.

136. Cummings sharply pushed **C.C.** elbows off the table, while his chin was resting in his hands, causing **C.C.** chin to strike the table. Cummings yelled at **C.C.** to sit up, grabbed **C.C.** chair and sharply pushed it in. Cummings ignored **C.C.** request to use the bathroom. Cummings refused to allow **C.C.** to go to his inclusion class as was required under his individualized education plan (hereinafter "IEP"). Throughout this ordeal, **C.C.** was crying and saying he did not know what to do while Cummings ignored him for hours.

137. The above incident was reported to King by an assistant teacher. Cummings was suspended for a few days. King did not report this incident to DCF or require any retraining.

138. In September 2020, **C.C.** was transferred to a different room with a different teacher. After this transfer, **C.C.** began making great progress with his disability issues and his education.
139. **C.C.** has suffered physical and emotional distress.
140. Erika Mellstrom and Clifton Clark, III have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.
- R.F.**
141. In March 2020, **R.F.** was a five-year-old girl with autistic spectrum disorder including severe language impairment.
142. **R.F.** attended Wildwood School in classroom 7. Cummings would grab and slam **R.F.** down in a chair and then ignore **R.F.** as she cried. **R.F.** came home from school with bruising on her buttock.
143. On at least one occasion, Cummings grabbed **R.F.** took her to a chair, slammed her down in the chair and ignored her as **R.F.** screamed.
144. **R.F.** parents attempted to talk to the Superintendent about these issues, but he failed and refused to return their call.
145. **R.F.** has suffered severe physical and emotional distress, including feelings of anxiety.
146. Sabrina Fucile and Allen Fucile have suffered a loss of parental consortium, causing severe emotional distress, including feelings of shame, anxiety and guilt.

COUNT I - Negligence

C.B., **N.B.**, **R.C. 1**, **R.C. 2**, **C.L.**, **A.F.**,
J.L., **G.S.**, **C.C.** and **R.F.**

v.

Town of Wilmington

147. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
148. Defendant Town of Wilmington owed a duty to exercise reasonable care for the protection of the Plaintiffs against misconduct and inappropriate conduct and/or contact by Cummings, Foggerty and Talbot.
149. Based on the conduct described above, Defendant Town of Wilmington was aware or should have been aware of the fact that Cummings, Foggerty and Talbot were subjecting their students to physical and emotional abuse which posed safety risks to the students.
150. Based on the conduct described above, Defendant Town of Wilmington was aware or should have been aware of the fact that Fitzgerald was allowing Cummings to subject her students to physical and emotional abuse which posed safety risks to the students.
151. Defendant Town of Wilmington breached that duty by negligently failing to train, supervise, and otherwise failing to make scheduling and staffing decisions to ensure that all students were not emotionally and physically abused and received proper supervision.
152. Defendant Town of Wilmington, through its administrators and staff, including Defendants Fitzgerald, King, Legrand, Ruggiero and Brand, failed to supervise Cummings, Foggerty and Talbot in a manner to prevent and discover Cummings, Foggerty and Talbot's physical and emotional abuse.

153. Presentment of this claim was made pursuant to Massachusetts General Laws, Chapter 258 §4.

154. By its actions, Defendant Town of Wilmington is the direct and proximate cause of the physical and emotional abuse endured by the Plaintiffs.

155. As a direct and proximate result of the foregoing, Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs demand judgment against Defendant Town of Wilmington for all compensatory damages recoverable; costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT II – 42 U.S.C. §1983

**C.B. , N.B. , R.C. 1 , R.C. 2 , C.L. , A.F. ,
J.L. , G.S. , C.C. and R.F.**
v.
Town of Wilmington

156. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.

157. Defendant Town of Wilmington acted by and through its agents.

158. Defendant Town of Wilmington violated the Plaintiffs' rights as residents of the United States pursuant to 42 U.S.C. §1983 and §1988.

159. Defendant Town of Wilmington had a duty to exercise reasonable care in the selection and retention of employees and to provide and ensure an educational environment for the Plaintiffs that was free from physical and emotional abuse and to enforce the regulations, rules, and laws necessary to protect the Plaintiffs and other students from acts of physical and emotional abuse of Cummings, Foggerty and Talbot.

160. Defendant Town of Wilmington failed to properly train and supervise employees and/or discipline them in order to avoid physical and emotional abuse and inadequate supervision.
161. By these failures, Defendant the Town of Wilmington adopted, approved, and/or enforced a policy, practice, and custom tolerating the violation of constitutional rights.
162. The affirmative acts of the Defendant Town of Wilmington, including, but not limited to, its implementation of customs, practices and/or policies that resulted in a failure to properly train and supervise its employees regarding required procedures for investigating and responding to reports of abuse, were the moving force and/or direct causal link to the physical and emotional abuse suffered by the Plaintiffs and were so extreme and egregious as to shock the conscience.
163. Defendant Town of Wilmington intentionally, willfully, and without justification deprived Plaintiffs of their rights, privileges, and immunities secured to them by the Constitution and the laws of the United States, including but not limited to, their rights to due process and to be free from physical and emotional abuse as provided by the Fourteenth Amendment of the Constitution, in violation of 42 U.S.C. §1983.
164. As a direct and proximate result of the foregoing, Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Town of Wilmington for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT III - 794 U.S.C. §504

C.B. , **N.B.** , **R.C. 1** , **R.C. 2** , **C.L.** , **A.F.**
 , **J.L.** , **G.S.** , **C.C.** and **R.F.**
v.
Town of Wilmington

165. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
166. 794 U.S.C. § 504 requires recipients of federal funding to provide an appropriate education to all qualified handicapped persons who are in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.
167. Defendant Town of Wilmington is a recipient of federal financial assistance, including federal financial assistance provided to its schools, special education departments, and Section 504 programs.
168. Recipients of federal financial assistance must provide regular or special education and related aids and services designed to meet the individual educational needs of disabled persons so that the needs of disabled persons are adequately met and may not discriminate on the basis of disability in providing these services.
169. Pursuant to 29 U.S.C. § 794, Defendant Town of Wilmington, by and through its staff, are required to establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of Free and Appropriate Public Education ("FAPE").
170. Defendant Town of Wilmington, by and through its staff, grossly and substantially departed from accepted professional judgment, practice, or standards when they did not

provide the Plaintiffs with protection from physical and emotional abuse and proper supervision.

171. Defendant Town of Wilmington, through its staff, intentionally and deliberately failed and refused to implement proper accommodations despite their obligation to do so and instead allowed Plaintiffs to be abused by Kimberly Cummings, Kelly Fogerty and Jessica Talbot.
172. Defendant Town of Wilmington, through its staff, further discriminated against Plaintiffs by treating the Plaintiffs differently than their non-disabled peers.
173. As a direct and proximate result of Defendant Town of Wilmington's deliberate and intentional actions and violations as described above, Plaintiffs were denied access to their education in violation of 794 U.S.C. § 504.
174. As a direct and proximate result of Defendant Town of Wilmington's discriminatory actions, Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Town of Wilmington for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT IV - M.G.L. Chapter 93 §103

C.B. , N.B. , R.C. 1 , R.C. 2 , C.L. , A.F.
J.L. , G.S. , C.C. and R.F.
v.

Town of Wilmington, Kimberly Cummings, Victoria Fitzgerald, Kelly Fogerty, Jessica Talbot, Alice Brown-Legrand, Paul Ruggiero, Charlotte King and Glenn Brand

175. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.

176. Each and all of the Defendants violated Plaintiffs rights as handicapped persons in the Commonwealth of Massachusetts to the full and equal benefit of all laws and proceedings for the security of persons, including, but not limited to, the rights secured under Article CXIV of the Amendments to the Constitution, and pursuant to G.L. c. 93, §103.
177. Each of the Defendants intentionally and deliberately failed and refused to implement proper accommodations despite their obligation to do so and instead allowed Plaintiffs to be physically and emotionally abused by Kimberly Cummings, Kelly Foggerty and Jessica Talbot, depriving them of the full and equal benefit of all laws and constitutional rights.
178. As a direct and proximate result of the foregoing, Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against each of the Defendants for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT V - Intentional Infliction of Emotional Distress

**C.B. , N.B. , R.C. 1 , R.C. 2 , C.L. , A.F. ,
J.L. , G.S. , C.C. and R.F.**

v.

Town of Wilmington, Kimberly Cummings, Victoria Fitzgerald, Kelly Foggerty, Jessica Talbot, Alice Brown-Legrand, Paul Ruggiero, Charlotte King and Glenn Brand

179. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
180. Each and all of the Defendants intended to inflict emotional distress or, they knew or should have known that emotional distress was the likely result of their conduct, when

they physically and emotionally abused or allowed others to physically and emotionally abuse the Plaintiffs.

181. Defendants' conduct in physically and emotionally abusing or allowing others to physically and emotionally abuse disabled students in their care was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community.

182. Defendants conduct caused the Plaintiffs distress of a nature so severe that no reasonable person could be expected to endure it.

183. As a direct and proximate result of Defendants' actions, the Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs demand judgment against each Defendant for all compensatory damages recoverable; all costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT VI - 42 U.S.C. §1983

C.B. , N.B. , R.C. 1 , R.C. 2 , C.L. , A.F.
J.L. , G.S. , C.C. and R.F.

v.

Charlotte King, Alice Brown-Legrand, Paul Ruggiero and Glenn Brand

184. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.

185. At all material times, Defendants King, Legrand, Ruggiero and Brand had the duty and responsibility to constitutionally hire, train, instruct, monitor, supervise, evaluate, investigate, staff, and discipline the Defendants Cummings, Fitzgerald, Fogerty and Talbot as well as all other employees and agents of Wildwood School.

186. Defendants King, Legrand, Foggerty and Brand failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline Cummings, Fitzgerald, Foggerty, Talbot and other employees of the Wildwood School, with deliberate indifference to the Plaintiffs' constitutional rights, which were thereby violated as described above.

187. As supervisors, Defendants King, Legrand, Ruggiero and Brand, each permitted and failed to prevent the unconstitutional acts of Defendants Cummings, Fitzgerald, Foggerty and Talbot, individuals under their supervision and control, and failed to properly supervise such individuals, with deliberate indifference to the rights and serious needs of the Plaintiffs. Each of these supervising Defendants either directed his or her subordinates in conduct that violated the Plaintiffs' rights, or set in motion a series of acts and omissions by his or her subordinates that the supervisor knew or reasonably should have known would deprive the Plaintiffs of rights, or knew his or her subordinates were engaging in acts likely to deprive the Plaintiffs of rights and failed to act to prevent his or her subordinate from engaging in such conduct, or disregarded the consequence of a known or obvious training deficiency that he or she must have known would cause

subordinates to violate the Plaintiffs rights, and in fact did cause the violation of the Plaintiffs rights. Furthermore, each of these supervising Defendants is liable in their failures to intervene in their subordinates' obvious violations of the Plaintiffs' rights.

188. The unconstitutional customs, policies, practices, and/or procedures of Defendant Town of Wilmington, stated herein, were directed, encouraged, allowed, and/or ratified by policymaking officers for Defendant Town of Wilmington, including Defendants King, Legrand, Ruggiero and Brand, with deliberate indifference to the Plaintiffs' and others' constitutional rights, which were thereby violated as described above.

189. The unconstitutional actions and/or omissions of Defendants Cummings, Fitzgerald, Foggerty and Talbot, as described above, were approved, tolerated, and/or ratified by policymaking officers for the Town of Wilmington, including Defendants King, Legrand, Ruggiero and Brand.
190. The details of the above-described incidents were revealed to Defendants King, Legrand, Ruggiero and Brand.
191. Notwithstanding this knowledge, Defendants King, Legrand, Ruggiero and Brand have approved and ratified the conduct and decisions of Defendants Cummings, Fitzgerald, Foggerty and Talbot in this matter, and have made a deliberate choice to endorse such conduct and decisions, and the basis for them.
192. By so doing, Defendants King, Legrand, Ruggiero and Brand have shown affirmative agreement with Defendants Cummings, Fitzgerald, Foggerty and Talbot's actions and have ratified their unconstitutional acts.
193. These customs, policies, practices, and procedures; the failures to properly and adequately hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline; and the unconstitutional orders, approvals, ratification, and toleration of wrongful conduct of Defendants Cummings, Fitzgerald, Foggerty and Talbot were a moving force and/or a proximate cause of the deprivations of the Plaintiffs' clearly established and well-settled constitutional rights in violation of 42 U.S.C.A. § 1983, as more fully set forth above.
194. Defendants King, Legrand, Ruggiero and Brand subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of rights described herein, knowingly, maliciously, and with

conscious and reckless disregard for whether the rights and safety of Plaintiffs would be violated by their acts and/or omissions.

195. As a direct and proximate result of the unconstitutional actions, omissions, customs, policies, practices, and procedures of Defendants King, Legrand, Ruggiero and Brand as described above, the Plaintiffs sustained serious and permanent injuries and are entitled to damages, penalties, costs, and attorneys' fees.
196. As a direct and proximate result of the foregoing, the Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendants Charlotte King, Alice Brown-Legrand, Paul Ruggiero and Glenn Brand for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT VII - 42 U.S.C. § 1983

C.B., **N.B.**, **R.C. 1**, **R.C. 2**, **C.L.**, **A.F.**
and J.L., **C.C.** and Fucile
v.
Kimberly Cummings

197. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
198. Defendant Cummings, while acting under color of law, physically and emotionally abused the Plaintiffs and thereby violated their clearly established rights under the Fourteenth Amendments to the United States Constitution.
199. Defendant Cummings acted with reckless disregard for Plaintiffs' constitutional rights.

200. As a direct and proximate result of Defendant Cummings discriminatory actions, the Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Kimberly Cummings for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT VIII - Assault and Battery

C.B. , N.B. , R.C. 1 , R.C. 2 , C.L. , A.F. ,
J.L. , C.C. and R.F.
v.
Kimberly Cummings

201. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
202. Defendant Cummings committed the tort of assault and battery against the Plaintiffs by assaulting and battering them without legal justification, cause, excuse, or privilege.
203. As a direct and proximate result of Defendant Cummings' actions, Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs demand judgment against Defendant Kimberly Cummings for all compensatory damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT IX - Massachusetts Civil Rights Act, M.G.L. c. 12 § 11I

C.B. , N.B. , R.C. 1 , R.C. 2 , C.L. , A.F. ,
J.L. , C.C. and R.F.
v.
Kimberly Cummings

204. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
205. By means of use of threats, intimidation and coercion, defendant Cummings violated the civil rights of the Plaintiffs under the laws of the Commonwealth of Massachusetts.

206. As a direct and proximate result of Defendant Cummings' actions, Plaintiffs suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Kimberly Cummings for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT X - 42 U.S.C. § 1983

**C.B. , N.B. , R.C. 1 , R.C. 2 , C.L. , A.F. ,
J.L. , C.C. and R.F.
v.
Victoria Fitzgerald**

207. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.

208. Defendant Fitzgerald, while acting under color of law, stood by and allowed Defendant Cummings to physically and emotionally abuse the Plaintiffs and thereby violated their clearly established rights under the Fourteenth Amendment to the United States Constitution.

209. Defendant Fitzgerald acted with reckless disregard for the Plaintiffs' constitutional rights.

210. As a direct and proximate result of the foregoing, Plaintiffs suffered and continue to suffer physical injury, indignity, humiliation, severe emotional distress, and mental anguish.

WHEREFORE, the Plaintiffs, demand judgment against Defendant Victoria Fitzgerald for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XI - 42 U.S.C. § 1983

G.S. v. Jessica Talbot

211. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
212. Defendant Talbot, while acting under color of law, physically and emotional abused the Plaintiff and thereby violated his clearly established rights under the Fourteenth Amendments to the United States Constitution.
213. Defendant Talbot acted with reckless disregard for Plaintiff's constitutional rights.
214. As a direct and proximate result of Defendant Talbot's discriminatory actions, the Plaintiff suffered physical injury, indignity, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Jessica Talbot for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XII - Assault and Battery

G.S. v. Jessica Talbot

215. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
216. Defendant Talbot committed the tort of assault and battery against the Plaintiff by assaulting and battering him without legal justification, cause, excuse, or privilege.
217. As a direct and proximate result of Defendant Talbot's actions, Plaintiff suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Jessica Talbot for all compensatory damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XIII - Massachusetts Civil Rights Act, M.G.L. c. 12 § 11I

G.S. v. Jessica Talbot

218. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.

219. By means of use of threats, intimidation and coercion, defendant Talbot violated the civil rights of the Plaintiff under the laws of the Commonwealth of Massachusetts.

220. As a direct and proximate result of Defendant Talbot's actions, Plaintiff suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Jessica Talbot for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XIV - 42 U.S.C. § 1983

C.L. v. Kelly Foggerty

221. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.

222. Defendant Foggerty, while acting under color of law, physically and emotional abused the Plaintiff and thereby violated her clearly established rights under the Fourteenth Amendments to the United States Constitution.

223. Defendant Foggerty acted with reckless disregard for Plaintiff's constitutional rights.

224. As a direct and proximate result of Defendant Foggerty's discriminatory actions, the Plaintiff suffered physical injury, indignity, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Foggerty for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XV - Assault and Battery

C.L. v. Kelly Foggerty

225. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
226. Defendant Foggerty committed the tort of assault and battery against the Plaintiff by assaulting and battering her without legal justification, cause, excuse, or privilege.
227. As a direct and proximate result of Defendant Foggerty's actions, Plaintiff suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Kelly Foggerty for all compensatory damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XVI - Massachusetts Civil Rights Act, M.G.L. c. 12 § 11I

C.L. v. Kelly Foggerty

228. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
229. By means of use of threats, intimidation and coercion, defendant Kelly Foggerty violated the civil rights of the Plaintiff under the laws of the Commonwealth of Massachusetts.
230. As a direct and proximate result of Defendant Kelly Foggerty's actions, Plaintiff suffered physical injury, indignities, humiliation, severe emotional distress and mental anguish.

WHEREFORE, the Plaintiff, demands judgment against Defendant Kelly Foggerty for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

COUNT XVII - Loss of Consortium under M.G.L. c. 231, § 85X

Roberta Biscan, Jennifer Baptista, Aaron Baptista, Sabrina Veloza, Kathryn Marsh, Mark Chmiel, Colleen Lavorato, Joseph Lavorato, Nicolette Doucette, Rosario Lofaro, Jeannette Luti, Richard Luti, Cassandra Nichols, Erika Mellstrom, Clifton Clark, III, Sabrina Fucile and Allen Fucile

v.

Town of Wilmington, Kimberly Cummings, Victoria Fitzgerald, Kelly Foggerty, Jessica Talbot, Alice Brown-Legrand, Paul Ruggiero, Charlotte King and Glenn Brand

231. Plaintiffs reallege and incorporate herein the allegations contained in each and every other paragraph of this Complaint.
232. Plaintiff Roberta Biscan is the parent of [REDACTED] C.B., an intellectually disabled child who is totally dependent on his parent for support.
233. Plaintiffs Jennifer Baptista and Aaron Baptista are the parents of [REDACTED] N.B., an intellectually disabled child who is totally dependent on his parents for support.
234. Plaintiff Sabrina Veloza is the parent of [REDACTED] R.C. 1, an intellectually disabled child who is totally dependent on his parent for support.
235. Kathryn Marsh and Mark Chmiel are the parents of [REDACTED] R.C. 2, an intellectually disabled child who is totally dependent on his parents for support.
236. Plaintiffs Colleen Lavorato and Joseph Lavorato are the parents of [REDACTED] C.L., an intellectually disabled child who is totally dependent on her parents for support.
237. Plaintiffs Nicolette Doucette and Rosario Lofaro are the parents of [REDACTED] A.F., an intellectually disabled child who is totally dependent on his parents for support.
238. Plaintiffs Jeannette Luti and Richard Luti are the parents of [REDACTED] J.L., an intellectually disabled child who is totally dependent on his parents for support.
239. Plaintiff Cassandra Nichols is the parent of [REDACTED] G.S., an intellectually disabled child who is totally dependent on his parent for support.

240. Plaintiffs Erika Mellstrom and Clifton Clark, III are the parents of [REDACTED] C.C. [REDACTED] an intellectually disabled child who is totally dependent on his parents for support.

241. Plaintiffs Sabrina Fucile and Allen Fucile are the parents of [REDACTED] R.F. [REDACTED], an intellectually disabled child who is totally dependent on his parents for support.

242. In accordance with M.G.L. c. 231, § 85X, Plaintiffs each have a cause of action for loss of consortium of their child, against each of the Defendants who are responsible for causing their injury.

WHEREFORE, the Plaintiffs, demand judgment against each of the Defendants for all compensatory damages recoverable; all punitive damages recoverable; all attorney's fees, costs and expenses allowable; and any and all other relief as the Court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL CLAIMS.

Plaintiffs,
By their attorney

/s/ Richard M. Welsh, Jr.
Richard M. Welsh, Jr., Esq., BBO# 552732
LAW OFFICE OF HOWARD M. KAHALAS
6 Beacon Street, Suite 1020
Boston, Massachusetts 02108
(617) 523-1155
rwelsh@kahalaslaw.com

March 23, 2023

EXHIBIT 2

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

**MIDDLESEX SUPERIOR COURT
CIVIL ACTION NO.**

**ROBERTA BISCAN, INDIVIDUALLY
AND AS PARENT OF [REDACTED] C.B.**

**JENNIFER BAPTISTA AND AARON BAPTISTA, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] N.B.**

**SABRINA VELOZA, INDIVIDUALLY
AND AS PARENT OF [REDACTED] R.C. 1**

**KATHRYN MARSH AND MARK CHMIEL, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] R.C. 2**

**COLLEEN LAVORATO AND JOSEPH LAVORATO, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] C.L.**

**NICOLETTE DOUCETTE AND ROSARIO LOFARO, INDIVIDUALLY
AND AS PARENTS [REDACTED] A.L.**

**JEANNETTE LUTI AND RICHARD LUTI, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] J.L.**

**CASSANDRA NICHOLS, INDIVIDUALLY
AND AS PARENT OF [REDACTED] G.S.**

**ERIKA MELLSTROM and CLIFTON CLARK, III, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] C.C.**

**SABRINA FUCILE and ALLEN FUCILE, INDIVIDUALLY
AND AS PARENTS OF [REDACTED] R.F.**

Plaintiffs

vs.

**TOWN OF WILMINGTON,
KIMBERLY CUMMINGS, VICTORIA FITZGERALD, JESSICA TALBOT,
KELLY FOGGERTY, ALICE BROWN-LEGRAND, PAUL RUGGIERO,
CHARLOTTE KING AND GLENN BRAND**

Defendants

ACCEPTANCE OF SERVICE OF PROCESS

Service of process and of the complaint by which the action was commenced is accepted
on behalf of the following defendants.

1. TOWN OF WILMINGTON,
2. ALICE BROWN-LEGRAND
3. PAUL RUGGIERO,
4. CHARLOTTE KING
5. GLENN BRAND

~~Plaintiffs,~~ *Defendants*
By their attorney

/s/ Adam Simms

Adam Simms, Esq., BBO# 632617

PIERCE DAVIS PERRITANO

10 Post Office Square, Suite 1100N

Boston, Massachusetts 02109

(617) 350-0950

asimms@piercedavis.com

Dated:

May 19, 2023

Date Filed 5/26/2023 10:14 AM

Superior Court - Middlesex

Docket Number 2301CV00868

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Roberta Biscan, et al.

(b) County of Residence of First Listed Plaintiff Middlesex
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Richard M. Welsh, Jr., Esq., BBO# 552732
6 Beacon Street, Suite 1020
Boston, MA 02108(617) 523-1155

DEFENDANTS

Town of Wilmington, et al.

County of Residence of First Listed Defendant Middlesex
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Adam Simms, Esq. BBO# 632617
Justin L. Amos, Esq. BBO# 697232
10 Post Office Sq Ste N1100

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability LABOR <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. s. 1983, 749 U.S.C. s. 504

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

May 25, 2023

SIGNATURE OF ATTORNEY OF RECORD

/s/ Justin L. Amos

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Date Filed 5/26/2023 10:14 AM

Superior Court - Middlesex

Docket Number 23-cv-00868

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Roberta Biscan, Individually and as Parent of C.B. et al. v. Town of Wilmington et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐

I. 160, 400, 410, 441, 535, 830*, 835*, 850, 880, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.

☒

II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.

☐

III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 485, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

None

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐

NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐

NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐

NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐

NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☒

NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☒

Central Division ☐

Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐

Central Division ☐

Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐

NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Adam Simms & Justin L. Amos

ADDRESS 10 Post Office Square, Suite 1100N, Boston, MA 02109

TELEPHONE NO. 617-350-0950

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS



Certified to be a true and
correct copy of the original
Robert M. Farrell, Clerk
U.S. District Court
District of Massachusetts
By: *[Signature]*
Deputy Clerk

Date: 05/25/2023

ROBERTA BISCAN et al.,)
Plaintiffs,)
VS.)
TOWN OF WILMINGTON et al.,)
Defendants.)

C.A. NO. 1:23-cv-11170

NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
28 U.S.C. § 1441(a)

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS:

Petitioners, Town of Wilmington (the "Town"), Alice Brown-Legrand, Paul Ruggiero, Charlotte King, and Glenn Brand (the "Town officials") respectfully petition this Honorable Court, pursuant to 28 U.S.C. § 1441(a), for removal of the above-entitled action to the United States District Court for the District of Massachusetts, Civil Section, from the Superior Court of the Commonwealth of Massachusetts in and for the County of Middlesex, and for its Notice of Removal states as follows:

1. The Town officials are named as defendants by the plaintiffs, Roberta Biscan, (individually and as parent of C.B.),¹ Jennifer and Aaron Baptista (individually and as parents of N.B.), Sabrina Veloza (individually and as parent of R.C. 1), Kathryn Marsh and Mark Chmiel (individually and as parents of R.C. 2), Colleen and Joseph Lavorato (individually and as parents of C.L.), Nicolette Doucette and Rosario Lofaro (individually and as parents of A.F.), Jeanette and Richard Luti (individually and as parents of J.L.), Cassandra Nichols (individually and as parent of G.S.), Erika Mellstrom and Clifton Clark, III (individually and as parents of C.C.), and Sabrina

¹ The Town officials use a pseudonym in place of the named student plaintiffs due to their ages and/or incapacitations. The Town officials have also redacted the exhibits attached hereto.

and Allen Fucile (individually and as parents of R.F.) (collectively the “plaintiffs”) in a civil action filed in the Superior Court of the Commonwealth of Massachusetts in and for the County of Middlesex, entitled Roberta Biscan et al. vs. Town of Wilmington, et al., Middlesex Superior Court, C.A. No. 2381-CV-00868. By agreement, on May 19, 2023, undersigned counsel accepted service of the Summons and Complaint on behalf of the Town and Town officials. Copies of the Complaint and the undersigned’s Acceptance of Service are attached hereto as Exhibits “1” and “2,” respectively. The Town officials have not yet answered or otherwise responded to said Summons and Complaint. There are no pending motions.

2. This is a suit of a wholly civil nature brought in a Massachusetts state court. The action is pending in the Superior Court of the Commonwealth of Massachusetts in and for the County of Middlesex and, accordingly, under 28 U.S.C. § 101 and § 1441(a), the United States District Court for the District of Massachusetts is the proper forum for removal.

3. In Count II of their Complaint, the plaintiffs allege that the Town violated 42 U.S.C. § 1983. In Count III of their Complaint, the plaintiffs allege that the Town violated 749 U.S.C. § 504. In Count VI, the plaintiffs alleged that the Town officials violated 42 U.S.C. § 1983.

4. Additionally, Counts VII, X, XI, and XIV each allege claims arising under the laws of the United States against defendants Kimberly Cummings, Victoria Fitzgerald, Jessica Talbot, and Kelly Fogerty.

5. Because Counts II, III, VI, VII, X, XI, and XIV of this civil action arise under the Constitution and laws of the United States, the United States District Court has original jurisdiction under 28 U.S.C. § 1331.

6. This Court has supplemental jurisdiction over Counts I, IV, V, VIII, IX, XII-XVII of this civil action under 28 U.S.C. § 1367(a).

7. The Town officials are filing this Notice of Removal within thirty days of service of the Summons and Complaint, within thirty days of the date this action became removable, and within the time for filing this petition. See 28 U.S.C. § 1446(b)(1).

8. The Town officials will file a Notice of Filing of this Notice of Removal and a copy of this Notice of Removal with the Clerk of the Superior Court of Massachusetts, County of Middlesex.

9. Pursuant to Local Rule 81.1(a), the Town officials shall request of the Clerk of the Superior Court of Massachusetts, County of Middlesex, certified or attested copies of all records and proceedings in the state court and certified or attested copies of all docket entries therein and shall file the same with this Court within thirty days after the filing of this Notice of Removal.

10. All defendants who have been properly joined and served in this matter join in or consent to the removal of the action. 28 U.S.C. § 1446(b)(2)(A).

WHEREFORE, the petitioners, Town of Wilmington, Alice Brown-Legrand, Paul Ruggiero, Charlotte King, and Glenn Brand, pray that the above-entitled action now pending in the Superior Court of the Commonwealth of Massachusetts in and for Norfolk County be removed from that Court to this United States District Court.

Respectfully submitted,

The Defendants,

TOWN OF WILMINGTON, ALICE BROWN-
LEGRAND, PAUL RUGGIERO, CHARLOTTE
KING, AND GLENN BRAND,

By their Attorneys,

PIERCE DAVIS & PERRITANO LLP

/s/ Justin L. Amos

Adam Simms, BBO #632617
Justin L. Amos, BBO #697232
Collen M. Howard, BBO #710250
10 Post Office Square, Suite 1100N
Boston, MA 02109
(617) 350-0950
asimms@piercedavis.com
jamos@piercedavis.com
choward@piercedavis.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on May 25, 2023.

/s/ Justin L. Amos

Justin L. Amos, Esq.